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2 N O T I C E

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4 DRAFT TRANSCRIPT. It contains raw output from the
5 court reporter's stenotype machine translated into
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19 pleading or for any other purpose and may not be
20 filed with any court.

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11:11:56 1 THE VIDEOGRAPHER: Here begins the

11:11:57 2 video-recorded deposition of Chris Vonderhaar

11:11:59 3 taken in the matter of

https://urldefense.proofpoint.com/v2/url?u=http-3A__Amazon.com&d=DwIGAg&c=wT9hcAyWecHwFH1f1ZE30A&r=IcGIiwhuRpB-tDQgFX5Skg_KofTBdhQVVzsEs6QIsWA&m=7Q1BvWI7CR0q7C09Ke2YNx1s9s7-Bp1AHWDY7ASyp8FRwVCq_uIG_fiQLc8Bt2u3&s=u6r4au_Rld3MPCpD_HgT6dhrJVob_JsWFjoLYW2X48c&e= and Amazon Data

11:12:04 4 Services versus WDC Holdings, Case No. 1:20cv484.

11:12:10 5 Today's date is March 23, 2022. The time is 11:12

11:12:17 6 Eastern time. This deposition is being held in

11:12:18 7 different locations via Zoom. The court reporter

11:12:21 8 is Okeemah Henderson. The video camera operator

11:12:24 9 is Kim Johnson, both are on behalf of Huseby.

11:12:27 10 Will counsel please introduce yourself and state

11:12:30 11 whom you represent.

11:12:36 12 MR. LITTLE: I'll defer to the plaintiffs

11:12:37 13 first.

11:12:38 14 MS. PAPEZ: Good morning. This is

11:12:40 15 Elizabeth Papez Gibson, Dunn and Crutcher, LLP for

11:12:42 16 plaintiff's

https://urldefense.proofpoint.com/v2/url?u=http-3A__Amazon.com&d=DwIGAg&c=wT9hcAyWecHwFHlf1ZE30A&r=IcGIiwhuRpB-tDQgFX5Skg_KofTBdhQVVsEs6QIsWA&m=7Q1BvWI7CR0q7C09Ke2YNx1s9s7-BplAHWDY7ASyp8FRwVCq_uIG_fiQLc8Bt2u3&s=u6r4au_Rld3MPCpD_HgT6dhrJVob_JsWFjoLYW2X48c&e= and Amazon Data Services,

11:12:52 17 Inc.

11:12:52 18 MS. BODNER: Sarah Bodner --

11:12:56 19 MR. LITTLE: Who are the other Amazon

11:12:57 20 employees? I think we should look at the Amazon

11:13:00 21 representations if we could.

11:13:04 22 MR. VONDERHAAR: Chris Vonderhaar, Amazon.

11:13:11 23 MR. ELIAS: This is brad Elias in-house

11:13:13 24 counsel at Amazon.

11:13:16 25 MS. STERLING: Amanda Sterling of the Law

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11:13:18 1 firm Gibson, Dunn & Crutcher for plaintiff's

11:13:18 2 Amazon.

11:13:21 3 MR. DZIUBAN: Michael Dziuban also of

11:13:24 4 Gibson, Dunn on behalf of Amazon.

11:13:25 5 MR. LITTLE: Alex Little and Adam Smart

11:13:29 6 Law Firm of Burr & Forman on behalf of Carleton

11:13:29 7 Nelson and Cheshire Ventures our client is also

11:13:36 8 present.

11:13:36 9 MS. BODNER: Sara Bodner, Stan Garnett and
11:13:40 10 Amanda Houseal for Brian Watson, WDC Holdings and
11:13:41 11 the Watson defendants, and our client, Brian
11:13:42 12 Watson is here as well.

11:13:44 13 MR. LITTLE: And I'll also note that Casey
11:13:45 14 Kirschner a pro se defendant is here as well.
11:13:49 15 Mr. Kirschner are you here.

11:13:50 16 MR. KIRSCHNER: Yes, I'm here. Thank you.

11:13:55 17 THE VIDEOGRAPHER: Will the court reporter
11:13:56 18 please swear in the.

19 CHRIS VONDERHAAR,
20 was called as a witness, and having been first
21 duly sworn, was examined and testified as follows:
22 EXAMINATION BY COUNSEL FOR DEFENDANT CARLETON
23 NELSON
24 BY MR. LITTLE:

11:14:18 25 Q. Good morning, sir. My name is Alex Little

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11:14:20 1 as I said I represent Carleton Nelson and Cheshire
11:14:24 2 Ventures in this matter. Before we get started I
11:14:26 3 want to go over a few background matters, sort of,

11:14:27 4 ground rules for this deposition and to start I
11:14:29 5 would like to ask whether you ever ever been
11:14:32 6 deposited before.

11:14:33 7 A. No.

11:14:34 8 Q. So since this is your first time I'll take
11:14:36 9 them through step by step. This is also a little
11:14:39 10 bit unusual because usually this happens with
11:14:41 11 everyone in the same room so we'll talk about what
11:14:44 12 happens when we're on Zoom. The first ground rule
11:14:46 13 relates to the court reporter. You should see on
11:14:48 14 your screen Ms. Henderson she's the court reporter
11:14:49 15 and she's going to transcribe as best she can
11:14:53 16 every word that's spoken. Every question that I
11:14:55 17 ask and every answer you give is going to be
11:14:56 18 transcribed by her. Because of that we need to be
11:15:00 19 able to sort of be articulate and separate
11:15:03 20 questions and answers so I'll do the best I can to
11:15:05 21 give a clear ending to my question and if you wait
11:15:08 22 briefly before you give your answer that way she
11:15:10 23 can get your full answer and I'll commit to doing
11:15:13 24 my best to not asking the next question until you
11:15:15 25 have done the same. Do you understand that?

11:15:17 1 A. Yes, sir.

11:15:18 2 Q. The same vain its important that we give
11:15:22 3 oral that you give oral answers as he I can see
11:15:25 4 you and if you were no nod or shake your head the
11:15:28 5 court reporter won't be able to put that into the
11:15:31 6 record sod if I can a question that calls for a
11:15:33 7 yes or no answer answer orally or otherwise
11:15:36 8 indicate with your wors as opposed to gestures is
11:15:40 9 that clear?

11:15:40 10 A. Yes, it is.

11:15:40 11 Q. Is you need the take a break at any time
11:15:43 12 for reason comfort, something is happening at home
11:15:46 13 tell us as long as you're not in the middle of a
11:15:49 14 question we'll be able to take a break at whenever
11:15:52 15 you need it. We will likely go past lunch ats
11:15:55 16 least in the east cost but if you need a comfort
11:15:57 17 break for my purpose just let us knowful will you
11:15:59 18 commit to tells us if and when you need a break?

11:16:02 19 A. Yes, I will.

11:16:05 20 Q. I'll ask you some questions I'm sure at
11:16:07 21 least bunch of them will be unclear and its
11:16:10 22 important that you understand may questions so if
11:16:12 23 I do ask an unclear question are you willing to

11:16:15 24 ask me to clarify?

11:16:16 25 A. Yes, I can.

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11:16:17 1 Q. I'll do my best to rephrase it and make it
11:16:21 2 clear for you. Finally even though you're not in
11:16:24 3 a courtroom you taken an oath to tell the truth.
11:16:26 4 That oath has the same impact and same penalty
11:16:29 5 first break as if you were in the courtroom. I
11:16:31 6 assume that you understand that and that oat will
11:16:34 7 continue fur the duration of this deposition. Do
11:16:37 8 you understand all that?

11:16:38 9 A. I do.

11:16:38 10 Q. Similarly these are some questions I ask
11:16:42 11 everyone but its important just for the record are
11:16:44 12 you currently taking any medication that could
11:16:47 13 impair your ability to hear my questions
11:16:49 14 understand them and answer them truthfully?

11:16:51 15 A. I am not.

11:16:51 16 Q. Have you taken any drugs or alcohol in the
11:16:57 17 last 12 minutes -- last 12 hours that would have
11:17:00 18 the same effect?

11:17:00 19 A. No, I have not.

11:17:01 20 Q. Is there any reason to the best of your
11:17:04 21 knowledge that you cannot give true and accurate
11:17:07 22 testimony today?

11:17:08 23 A. There is no reason.

11:17:09 24 Q. You have already given your -- the zoom
11:17:12 25 part of this just for background as well as we

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11:17:15 1 said we'll be using a product called agile law
11:17:18 2 which will allow tow see the exhibits to a
11:17:20 3 separate screen we talked through that when we
11:17:23 4 were off the record if you have trouble viewing
11:17:26 5 the exhibits let us know and we'll go off the
11:17:28 6 record and make sure you can do that. And for
11:17:31 7 your knowledge your attorneys who are not present
11:17:33 8 with you not looking at the same thing you are
11:17:36 9 they have access and they can see it just as you
11:17:38 10 can as well. I want to confirm you are not
11:17:40 11 present with anyone else taking this deposition
11:17:42 12 are you?

11:17:42 13 A. No, I am not.

11:17:43 14 Q. And although there will be breaks and you

11:17:47 15 can communicate with your counsel, during breaks
11:17:49 16 we ask that you not communicate with counsel via
11:17:52 17 chat, messenger or anything of that sort. Can you
11:17:55 18 commit to doing that?
11:17:56 19 A. Yes, I can.
11:17:58 20 Q. So although you have been sworn this and
11:18:03 21 given your name could you please as we start just
11:18:06 22 spell both your first name and last name?
11:18:09 23 A. Sure. Chris Vonderhaar spelled C H R I S
11:18:14 24 last name spelled V as in Victor O N D as in dog E
11:18:19 25 R H A A R.

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11:18:20 1 Q. Thank you sir. You're here today pursuant
11:18:25 2 to a deposition notice in the case involving your
11:18:27 3 company, Amazon; is that right?
11:18:29 4 A. Correct.
11:18:30 5 Q. When did you first learn that you were
11:18:32 6 going to have to appear for a deposition in this
11:18:34 7 matter?
11:18:38 8 A. Doesn't know an exact date but it was
11:18:41 9 probably a few weeks ago.
11:18:43 10 Q. When you learned your going to be deposed

11:18:46 11 besides attorneys for Amazon in how do you spell
11:18:48 12 or external who have you spoken to about the fact
11:18:51 13 that usual going to be deposed?

11:18:54 14 A. My conversations have been with counsel
11:18:57 15 represented here on the call as well as Amazon's
11:18:59 16 in house counsel.

11:19:01 17 Q. So you spoke with no other Amazon
11:19:03 18 employees or folks of Amazon about the fact that
11:19:06 19 you were going to be deposed?

11:19:08 20 A. I have not.

11:19:08 21 Q. I'm not asking you to divulge anything
11:19:17 22 about your conversation with your attorney what is
11:19:19 23 have you done to prepare for this deposition if
11:19:21 24 anything?

11:19:21 25 A. I have met with counsel represented on

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11:19:24 1 this call, 3 times for a couple of hours each
11:19:32 2 time.

11:19:32 3 Q. When were these meetings approximately?

11:19:34 4 A. Those meetings have taken place over the
11:19:36 5 past three or four days.

11:19:37 6 Q. What's the length of those meetings

11:19:39 7 approximately in total?

11:19:43 8 A. In total probably 6 to 8 hoursish right in

11:19:50 9 there with bathroom breaks between things like

11:19:53 10 that.

11:19:53 11 Q. Did you review any materials during that

11:19:55 12 time written materials or documents?

11:19:56 13 A. I did.

11:19:57 14 Q. Do you recall what any of those materials

11:20:00 15 were?

11:20:01 16 A. They were materials related to our CAR

11:20:06 17 process, art factes from that process germane to

11:20:11 18 that case and several of the documents that I

11:20:13 19 signed.

11:20:15 20 Q. Of the documents that you signed which

11:20:18 21 ones do you recall looking at in the preparation

11:20:20 22 of this deposition?

11:20:21 23 A. You know, I don't remember the title of

11:20:24 24 the documents. They were agreements that I had

11:20:26 25 signed.

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11:20:27 1 Q. Do you know what those agreements related

11:20:31 2 to?

11:20:31 3 A. They were related to the this case and the
11:20:35 4 complaint and some of the dialogue back and forth
11:20:37 5 in this case and then I believe there were some
11:20:41 6 other lease documents that I looked at.

11:20:44 7 Q. Were these lease documents involving IPI?

11:20:50 8 A. I believe one of them was yes.

11:20:52 9 Q. Did you review any e-mails in preparation
11:20:55 10 for this deposition?

11:20:56 11 A. There were a few e-mails had my name on it
11:21:00 12 with details about some of these transactions in
11:21:07 13 question.

11:21:07 14 Q. Have you reviewed any transcripts in
11:21:10 15 connection with the preparation for this
11:21:11 16 deposition?

11:21:12 17 A. I have not reviewed any transcripts.

11:21:16 18 Q. Okay. Thank you. Sir, what is your title
11:21:20 19 and position a Amazon?

11:21:21 20 A. Currently my title is vice president AWS
11:21:27 21 datacenters.

11:21:29 22 Q. How long have you held that title?

11:21:31 23 A. That title roughly about 12 months now.

11:21:41 24 Q. How long in total -- wear going to walk
11:21:43 25 through sort of your background how long in total

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11:21:46 1 have you worked at Amazon before A W S?

11:21:48 2 A. I have worked at Amazon and A W S

11:21:51 3 specifically A W S since 2010 so about 11 and a

11:21:55 4 half years a little over.

11:21:56 5 Q. How old are you sir?

11:21:58 6 A. 53.

11:21:59 7 Q. What is your highest level of education

11:22:03 8 you attained?

11:22:04 9 A. I have an engineering degree under garage

11:22:07 10 engineering get agree from the University of Iowa.

11:22:10 11 Q. Approximately when did you graduate?

11:22:15 12 A. 1991.

11:22:16 13 Q. Let me turn your attention to what's

11:22:19 14 previously been marked as exhibit CV 01 can you

11:22:26 15 take a look at that?

11:22:27 16 A. Yes, sir.

11:22:28 17 Q. Safe us a little time so you don't have to

11:22:30 18 ask questions specifically about all this I would

11:22:32 19 ask you to review on pages 2 and 3 the summary of

11:22:36 20 your background and let me know if that is an

11:22:39 21 accurate representation of your work experience

11:22:41 22 between the time you left University of Iowa and
11:22:45 23 today?

11:22:46 24 MS. PAPEZ: Objection to form.

11:23:00 25 A. It lacking to be a good representation of

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11:23:03 1 my work experience. Yes.

11:23:03 2 BY MR. LITTLE:

11:23:05 3 Q. I want to talk about a few of those things
11:23:07 4 in particular when you first joined Amazon in July
11:23:11 5 of 2010 thereabouts how did you get that job?

11:23:14 6 A. A mutual colleague that I had worked with
11:23:24 7 reached out to me and ask me if I would be
11:23:26 8 interested in entertaining opportunities at Amazon
11:23:29 9 and I came in and from there that entered me into
11:23:34 10 an interview process.

11:23:36 11 Q. Why did you choose to work with for Amazon
11:23:39 12 at that time?

11:23:43 13 A. At the time I was working for a company
11:23:45 14 called bridge Telecom and it was interesting work,
11:23:49 15 meaningful work but Amazon was starting to
11:23:53 16 generate some buzz and energy in the marketplace
11:23:58 17 they were doing a lot of innovative things I found

11:24:01 18 that breasting and.

11:24:03 19 Q. To be clear when I say Amazon you mean

11:24:07 20 Amazon web services correct?

11:24:08 21 A. Yes.

11:24:09 22 Q. And for purposes of this deposition when I

11:24:11 23 reference Amazon we'll talk about Amazon web

11:24:14 24 services, are you comfortable with that?

11:24:16 25 A. If you mean using them interchangeably

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11:24:18 1 yeah.

11:24:19 2 Q. But to be clear you started with Amazon

11:24:22 3 web services and then worked for A W S throughout

11:24:25 4 your time at the company?

11:24:27 5 A. Yeah.

11:24:30 6 Q. There were other components but you never

11:24:33 7 moved to other piece of Amazon services?

11:24:34 8 A. That's correct.

11:24:36 9 Q. So your first job was to director of

11:24:39 10 infrastructure planning and product management

11:24:42 11 correct?

11:24:42 12 A. Yes.

11:24:42 13 Q. Could you tell us what your roles were in
11:24:46 14 that job?

11:24:49 15 A. Sure. I'll say it was somewhat variable.
11:24:56 16 Company A W S specifically I was pretty young at
11:25:00 17 than point growing fast, very few services but
11:25:03 18 developing new services very quickly. I started
11:25:06 19 out providing serve fulfillment from A W S to

11:25:13 20

https://urldefense.proofpoint.com/v2/url?u=http-3A__Amazon.com&d=DwIGAg&c=wT9hcAyWecHwFHlf1ZE30A&r=IcGIiwhuRpB-tDQgfX5Skg_KofTBdhQVVzsEs6QIsWA&m=7QlBvWI7CR0q7C09Ke2YNx1s9s7-BplAHWDY7ASyp8FRwVCq_uIG_fiQLc8Bt2u3&s=u6r4au_Rld3MPCpD_HgT6dhrJVob_JsWFjoLYW2X48c&e= to support things like black friday and

11:25:18 21 Cyber Monday for retail high velocity sales
11:25:21 22 events. I started to get involved with different
11:25:23 23 programs to build processes, build tools and
11:25:28 24 systems and in some cases started to work with
11:25:32 25 different people in A W S to support new region

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11:25:37 1 and scaling our capacity.

11:25:38 2 Q. You say knew region launches for AWS do
11:25:43 3 you mean placing web AWS facilities in different
11:25:49 4 geographic regions?

11:25:54 5 MS. PAPEZ: Objection to form.

11:25:55 6 A. In terms of the regions basically it's

11:25:58 7 planning what would be required what services

11:26:01 8 would be launched how do we procure some of those

11:26:04 9 asset.

11:26:04 10 Q. We're going to be talking to people who

11:26:06 11 may not know these things when say procure service

11:26:09 12 what is does that mean?

11:26:10 13 A. I would be working -- at the time I was

11:26:12 14 working more with what we call our cloud services

11:26:16 15 compute and storage services offered as utility or

11:26:20 16 cloud computing and working with those service

11:26:22 17 owners to understand any given geographic region

11:26:28 18 what services would be offered. How many or what

11:26:33 19 scale of infrom structure would be required to

11:26:36 20 support those services at launch and going forward

11:26:39 21 and making sure that everybody had a very clear

11:26:42 22 plan for how much infrastructure physical

11:26:45 23 infrastructure capacity would be required.

11:26:48 24 Q. So when you talk about physical

11:26:51 25 infrastructure capacity I may know what you mean

11:26:55 1 but is physical infrastructure capacity

11:27:01 2 datacenter?

11:27:01 3 MS. PAPEZ: Objection to form.

11:27:02 4 A. Physical infrastructure capacity would
11:27:05 5 include servers to computer that post, virtual
11:27:08 6 cloud services would include things like
11:27:10 7 networking that connects, datacenter connect
11:27:18 8 services across our region and datacenter
11:27:22 9 capacity.

11:27:22 10 Q. When you talk about networking there's now
11:27:24 11 a team because I want to use these terms that
11:27:27 12 we've used in prior depositions is that known as
11:27:30 13 fiber in AWS today?

11:27:32 14 MS. PAPEZ: Objection to form.

11:27:33 15 A. Networking includes fiber and a lot of
11:27:36 16 other physical and vir wall services.

11:27:36 17 BY MR. LITTLE:

11:27:40 18 Q. So to be more clear fiber is to component
11:27:42 19 of networking so when its discussed at it is one
11:27:45 20 piece of the broader networking pie is that a fair
11:27:50 21 description?

11:27:51 22 MS. PAPEZ: Object to form.

11:27:52 23 A. That's mostly accurate description.

11:27:52 24 BY MR. LITTLE:

11:27:54 25 Q. So you were in that position until 2017 --

11:27:58 1 let me ask about this before we go there. Do you
11:28:02 2 have any sense of how big AWS was in 2010 in terms
11:28:05 3 of its revenue?

11:28:08 4 A. I do not.

11:28:08 5 Q. Do you have any idea how many people
11:28:13 6 generally were working there at the time?

11:28:17 7 MS. PAPEZ: Objection to the form.

11:28:18 8 A. I really don't know how many people were
11:28:20 9 there it was growing fast.

11:28:20 10 BY MR. LITTLE:

11:28:23 11 Q. Is it's fair to say that many many times
11:28:25 12 larger today then it was when you joined in 2010?

11:28:28 13 A. Yeah, its larger.

11:28:31 14 Q. Much larger is that a fair description
11:28:34 15 much larger?

11:28:36 16 MS. PAPEZ: Objection to form.

11:28:36 17 A. Yes.

11:28:36 18 BY MR. LITTLE:

11:28:37 19 Q. So you changed roles in 2017 to become the
11:28:40 20 VP of infrastructure and forecasting Amazon system
11:28:45 21 correct?

11:28:45 22 A. Yes.

11:28:46 23 Q. One duty in that role was datacenter

11:28:51 24 capacity planning correct?

11:28:53 25 MS. PAPEZ: Objection to form.

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11:28:53 1 A. Correct.

11:28:53 2 BY MR. LITTLE:

11:28:56 3 Q. To the layman can you describe what

11:28:58 4 datacenter capacity planning is.

11:29:01 5 A. Sure. Datacenter capacity planning takes

11:29:06 6 usage utility or cloud computing services

11:29:11 7 expressed as storage or compute cycles and

11:29:15 8 converts that unit of forecast into service

11:29:21 9 servers. Servers that require space and power and

11:29:25 10 then servers that require space and power into

11:29:29 11 datacenter capacity units, square footage,

11:29:33 12 kilowatts or megawatt power that we use to plan

11:29:37 13 datacenter acquisition and construction.

11:29:40 14 Q. In that broader level what is the purpose

11:29:42 15 of this exercise of doing planning of this sort?

11:29:46 16 MS. PAPEZ: Objection to form.

11:29:47 17 A. Very simply planning is about converting

11:29:52 18 of work as to executable instructions or plans for

11:29:56 19 datacenter procurement construction server

11:30:00 20 procurement, networking procurement and the like.

11:30:03 21 Q. And you say a forecast is that a forecast

11:30:05 22 for the demand of services that you described

11:30:07 23 previously the cloud services you described?

11:30:10 24 A. Yes it would be a forecast and the usage

11:30:13 25 unit that I described like storage.

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11:30:16 1 Q. It might be helpful to ask you to do this

11:30:21 2 you have described storage an computing cycles

11:30:26 3 being a unit a datacenter capacity with square

11:30:29 4 footage, kilowats and megawatt hours, I know this

11:30:30 5 may sound beunanimous tick but you can imagine

11:30:33 6 these things come up and it will be useful to have

11:30:36 7 a clear description of them when you say storage

11:30:39 8 capacity what units are being used in the data

11:30:42 9 capacity planning or the datacenter planning team

11:30:44 10 to express those?

11:30:47 11 MS. PAPEZ: Objection to the form.

11:30:49 12 A. Actually the compete cloud computing units

11:30:55 13 like compute cycles for storage are not provided

11:30:59 14 or created by datacenter planning they're an input

11:31:02 15 to our process from the services.

11:31:05 16 Q. So there's a whole accept team that does

11:31:08 17 services forecasting correct?

11:31:10 18 A. Correct.

11:31:10 19 Q. And they provide you those units that

11:31:13 20 are -- what are the units they provide you in

11:31:16 21 engineering terms?

11:31:18 22 MS. PAPEZ: Objection to the form.

11:31:20 23 A. We get from them takes a few different

11:31:23 24 forms. Generally its normalized power expressed

11:31:27 25 as rat positions. Ten kilowatt rap or ten K V A

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11:31:34 1 equivalent merges based power and servers those

11:31:40 2 are the two units we work.

11:31:42 3 Q. T K V correct?

11:31:46 4 MS. PAPEZ: Objection to form.

11:31:48 5 BY MR. LITTLE:

11:31:48 6 Q. It is TKE is that an acronym for what you

11:31:53 7 described?

11:31:53 8 A. TKE is the ten killable equivalent yes.

11:31:57 9 Q. So then servers are those just expressed

11:32:02 10 in numbers of actual serves or is there a

11:32:05 11 normalized unit for that as well?

11:32:07 12 MS. PAPEZ: Objection to form.

11:32:10 13 A. The servers are expressed as physical

11:32:14 14 servers that have a power equivalent so we can

11:32:16 15 understand the power draw of those servers.

11:32:20 16 Q. Would that be expressed in kilowatt hours

11:32:23 17 an megawatt hours?

11:32:25 18 A. Generally kilowatts an megawatts they all

11:32:30 19 can be convert today hours yes.

11:32:32 20 Q. Its K W or K W H?

11:32:36 21 A. Generally K W.

11:32:40 22 Q. These are all tremes that will show up at

11:32:42 23 different times on Amazon planning documents, will

11:32:45 24 they not?

11:32:46 25 A. Yes.

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11:32:47 1 Q. Then the last set of units that you just

11:32:52 2 described previously was datacenter capacity

11:32:55 3 square footage or electrical terms. What are the

11:32:58 4 units that you use for expressing datacenter

11:33:02 5 capacity?

11:33:04 6 A. We will express datacenter capacity in ten
11:33:08 7 K V A equivalent TKE as you mentioned but we'll
11:33:12 8 also look at datacenter capacity in terms of
11:33:15 9 aggregate power provided to a datacenter as well
11:33:19 10 as the square footage.

11:33:23 11 Q. In your role doing datacenter capacity
11:33:26 12 planning and you got these inputs from the team
11:33:28 13 the forecasting team I guess, how often would
11:33:32 14 demand change on a daily basis an hourly basis a
11:33:36 15 weekly basis, how often would that change?

11:33:46 16 MS. PAPEZ: Objection to the form.

11:33:47 17 A. It changed quite frequently.

11:33:47 18 BY MR. LITTLE:

11:33:54 19 Q. More than daily?

11:33:55 20 A. It would change as afternoon as we have
11:33:57 21 new inputs to inform a trended forecast and
11:34:00 22 generated forecast. So any time you run a
11:34:03 23 forecast it may change.

11:34:05 24 Q. So what I'm trying to understand is how
11:34:07 25 often would those forecasts be run would they be

11:34:10 1 run weekly monthly annually or any subset?

11:34:14 2 MS. PAPEZ: Objection to form.

11:34:15 3 A. We would run them on a regular cadence and

11:34:18 4 then as needed if they were some unique demand

11:34:23 5 event associated with the cadence.

11:34:23 6 BY MR. LITTLE:

11:34:26 7 Q. What was the regular cadence to the extent

11:34:28 8 there was one?

11:34:29 9 A. Some forecasts were run monthly some were

11:34:32 10 run quarterly.

11:34:33 11 Q. I'm going to show you on your screen

11:34:39 12 what's going to be marked as Exhibit 2?

11:34:42 13 (Exhibit 2 was marked.)

11:34:47 14 MR. LITTLE: Let me know when you're able

11:34:49 15 to see that on your screen.

11:34:51 16 A. I see document 2. CV 02.

11:34:55 17 Q. This is a thread the e-mail we'll be

11:34:58 18 talking about is the e-mail that's on page one to

11:35:01 19 Andy Jassy. Feel free to read all of it and let

11:35:06 20 me know when you're done. It's the one July 1,

11:35:10 21 2018 at 12:47 p.m.?

11:36:06 22 A. Okay I have read the e-mail that I sent to

11:36:08 23 him.

11:36:08 24 Q. And just to be -- I want to make sure you

11:36:12 25 have a cop text so there is a two line or 3 line

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11:36:15 1 e-mail from dandy below that I want to make sure

11:36:19 2 you have read that before I ask my next question

11:36:22 3 as well it's the one on the day before on June

11:36:25 4 30th at 7:49 p.m.?

11:36:29 5 A. Let me take a quick look at that. Stand

11:36:31 6 by. Okay.

11:36:41 7 Q. In terms of your e-mail to Mr. Jassy are

11:36:44 8 you trying to respond to his concerns about

11:36:47 9 constraints placed on supply?

11:36:49 10 MS. PAPEZ: Objection to form.

11:36:52 11 A. This context I'm trying to explain --

11:36:56 12 strike to provide context for e-mail that he

11:36:59 13 received about various projections of supply and

11:37:05 14 demand that fell below what we would expect to

11:37:11 15 want.

11:37:11 16 Q. When I know say what you would want what

11:37:13 17 would AWS want in terms of projections for supply

11:37:16 18 and demand?

11:37:16 19 A. Ideally we get a forecast that has some

11:37:21 20 probability like there might be a mean forecast

11:37:25 21 and then I high side forecast that account first
11:37:28 22 variability and in those forecasts we seek to
11:37:34 23 procure capacity, server datacenter network,
11:37:38 24 whatever to that higher site forecast to allow for
11:37:43 25 unexpected or emergent demand from customer.

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11:37:47 1 Q. What would happen if the supply was not
11:37:50 2 sufficient to keep up with the demand?

11:37:53 3 MS. PAPEZ: Objection to form.

11:37:54 4 A. In those cases where our projections show
11:37:57 5 that there's maybe supply or demand is exceeding
11:38:02 6 supply either at a kind of a baseline or a high
11:38:05 7 site then that triggers various teams to go out an
11:38:10 8 seek to procure additional capacity and or pursue
11:38:14 9 other mitigations to bring supply and demand into
11:38:17 10 alignment.

11:38:17 11 Q. Were supply short falls common?

11:38:20 12 MS. PAPEZ: Objection to the form.

11:38:21 13 A. Projected supply short falls over various
11:38:27 14 horizons were common. Yes.

11:38:30 15 Q. What would you attribute that to?

11:38:35 16 MS. PAPEZ: Objection to form.

11:38:36 17 A. There are a number of things that
11:38:38 18 contribute it one is changes in our demand
11:38:40 19 forecast in a pretty rapidly growing business and
11:38:45 20 from time to time there are also supply I'll call
11:38:49 21 them delays maybe a construction project gets
11:38:53 22 delay bid a week or two or whatever. Either one
11:38:57 23 of those things can misalign demand and supply and
11:39:01 24 lead to a projected -- lead to some sort of
11:39:05 25 difference or delta that you may or may not be

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11:39:11 1 happy about.

11:39:11 2 BY MR. LITTLE:

11:39:12 3 Q. Fair to say that the variables and the
11:39:14 4 inputs are changing rapidly?

11:39:19 5 MS. PAPEZ: Objection to form.

11:39:19 6 A. Yes, on the demand side in particular.

11:39:22 7 The variables can change pretty rapidly.

11:39:22 8 BY MR. LITTLE:

11:39:26 9 Q. Were you also responsible in this role for
11:39:28 10 real estate sourcing as a sub component of
11:39:31 11 capacity?

11:39:32 12 MS. PAPEZ: Objection to form.

11:39:33 13 A. In this time horizon July 2nd, I don't
11:39:41 14 recall if I was responsible for real estate at
11:39:44 15 that specific date. I did eventually become
11:39:47 16 responsible for real estate. I don't remember
11:39:49 17 exactly when that occurred.

11:39:49 18 BY MR. LITTLE:

11:39:51 19 Q. When I say real estate sourcing what did
11:39:55 20 that mean within AWS?

11:39:57 21 MS. PAPEZ: Objection to form.

11:39:58 22 A. Real estate sourcing means procuring
11:40:02 23 additional either real estate and land or
11:40:06 24 colocation third-party datacenter capacity to meet
11:40:10 25 your forecast.

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11:40:10 1 BY MR. LITTLE:

11:40:14 2 Q. When you say real estate in terms of land
11:40:16 3 does that mean obviously you don't have a
11:40:18 4 datacenter until you have something bit on that
11:40:20 5 land is it fair to say until you have a built
11:40:24 6 datacenter that it does not become capacity?

11:40:27 7 MS. PAPEZ: Objection to form.

11:40:27 8 A. Real estate is if you're referring to real
11:40:30 9 estate it means procuring the land to build the
11:40:33 10 datacenter and we don't have usable capacity until
11:40:36 11 we construct a commission the datacenter.

11:40:36 12 BY MR. LITTLE:

11:40:39 13 Q. When do you have a constructed datacenter
11:40:42 14 is that then become part of your supply to be able
11:40:45 15 to supply the services?

11:40:47 16 MS. PAPEZ: Objection to form.

11:40:48 17 A. Yes. Datacenter representatives for
11:40:55 18 example becomes usable capacity.

11:40:55 19 BY MR. LITTLE:

11:40:58 20 Q. You moved out of the that role in
11:40:59 21 approximately December of 2018 -- or excuse me may
11:41:03 22 have been before then. Let me confirm that. This
11:41:13 23 December of 2018 why did you move on to a
11:41:15 24 different role at that time?

11:41:17 25 MS. PAPEZ: Objection to form.

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11:41:17 1 A. In December of 2018 I left the planning
11:41:24 2 role with other things like corporate systems and

11:41:29 3 I started run our datacenter operations team.

11:41:33 4 Q. What was the impotus for that move?

11:41:36 5 A. We had a resignation for one of my peers
11:41:42 6 leaving datacenter operations and I was asked the
11:41:45 7 backfill that role.

11:41:47 8 Q. Who was that individual?

11:41:48 9 A. Gentleman named Bowen Wallace.

11:41:52 10 Q. What is your current operational role to
11:42:02 11 the at AWS?

11:42:06 12 A. My role encompasses everything from
11:42:09 13 engineering and designing, your own lease and
11:42:14 14 datacenter through what we call plan an build so
11:42:17 15 the planning I described earlier, acquiring and
11:42:20 16 procuring assets as well as constructings am
11:42:26 17 commissioning the datacenter so delivering
11:42:28 18 datacenter capacity and the last part is the
11:42:30 19 operations of that capacity so operating servers
11:42:33 20 insurance the datacenter as well as main taping
11:42:36 21 critical infrastructure like power and.

11:42:40 22 Q. Within those different buckets and do they
11:42:43 23 have team names that you sort of supervise in
11:42:45 24 terms of roles you described?

11:42:47 25 A. Yes.

11:42:47 1 Q. There are sub teams in there?

11:42:50 2 Q. And what is a sub steam called that deals
11:42:53 3 with the acquisition of real estate?

11:42:55 4 MS. PAPEZ: Objection to form.

11:42:56 5 A. I believe we call it the real estate team.

11:42:56 6 BY MR. LITTLE:

11:43:06 7 Q. So let's talk about the real estate team.

11:43:08 8 Is the real estate team structured with you
11:43:10 9 supervisors and subordinates at Amazon?

11:43:14 10 A.

11:43:18 11 A. Yes.

11:43:18 12 Q. Is that supervisor of the real estate team
11:43:20 13 report to you?

11:43:20 14 A. Today that supervisor does not. He
11:43:25 15 reports to someone who reports to me.

11:43:27 16 Q. So I want to talk through that structure
11:43:30 17 and maybe this is a good time. Could you describe
11:43:33 18 the Amazon level system for designating levels of
11:43:38 19 seniority?

11:43:39 20 MS. PAPEZ: Objection to form.

11:43:42 21 A. Yes.

11:43:47 22 A. I'll start with me I'm what we refer to as

11:43:50 23 an L 10 which is a vice president level. In this
11:43:54 24 kind of particular area of my organization I have
11:44:01 25 an L 8 level 8 director who is responsible for

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11:44:05 1 Americas plan -- datacenter plan and build
11:44:09 2 delivery and reporting to that director today we
11:44:12 3 have a level 7 senior manager who owns and is
11:44:18 4 accountable for real estate procurement.

11:44:21 5 Q. And the levels go below 7 within the AWS
11:44:27 6 organization?

11:44:28 7 A. Yes, they do.

11:44:28 8 Q. How far down do they go. Do they start at
11:44:31 9 one or do that it start at 4 or 5?

11:44:35 10 A. In my organization specific to the real
11:44:39 11 estate function they go to level 4.

11:44:42 12 Q. You're a ten are there individuals who are
11:44:51 13 at levels above ten?

11:44:54 14 A. Yes.

11:44:54 15 Q. How high do those levels go?

11:44:56 16 A. I believe -- I believe but I'm not sure
11:44:59 17 they go to L 12.

11:45:03 18 Q. Would an L 12 be the CEO of AWS?

11:45:09 19 A. I don't actually know.

11:45:12 20 Q. There's not an L 9 is there?

11:45:16 21 A. Not that I'm aware of. No.

11:45:17 22 Q. Do you know that there's not -- are you

11:45:21 23 aware or have you ever been told that there is not

11:45:23 24 an L 9 because Jeff bay /SOEZ wanted to create

11:45:29 25 separation between 8s and tens an make it more

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11:45:32 1 difficult to become a ten?

11:45:33 2 MS. PAPEZ: Objection to form.

11:45:34 3 A. Never heard anything like that before

11:45:36 4 until now.

11:45:36 5 BY MR. LITTLE:

11:45:37 6 Q. Okay. Were you ever your use why there

11:45:40 7 wasn't a 9 before today?

11:45:43 8 MS. PAPEZ: Objection to form.

11:45:44 9 A. Not really. No.

11:45:44 10 BY MR. LITTLE:

11:45:46 11 Q. Now those levels do they correspond to

11:45:50 12 something called stack ranking?

11:45:58 13 A. No.

11:45:58 14 Q. What is stack ranking?

11:46:00 15 A. Stack ranking tends to refer to what we
11:46:02 16 call performance management calibration. More
11:46:08 17 about comparing peers to one another.

11:46:12 18 Q. When you compare peers relative to each
11:46:15 19 other do you compare peers within each level?

11:46:18 20 MS. PAPEZ: Objection to form.

11:46:18 21 BY MR. LITTLE:

11:46:19 22 Q. For example 7 to be compared to 7s?

11:46:22 23 A. Yes.

11:46:22 24 Q. So when you say you compare them to one
11:46:25 25 another, what actually is entailed in that process

Page 30

11:46:28 1 that you described the performance management
11:46:32 2 calibration?

11:46:36 3 A. Its more around buckets I would say. I
11:46:39 4 would describe it as we have buckets of people who
11:46:41 5 we rate as high potential our top tier we think
11:46:49 6 of them and we have a middle bucket that's called
11:46:52 7 highly valued and there's a bucket of folks who
11:46:56 8 have to improve in some way that are in a least
11:47:00 9 effective bucket.

11:47:01 10 Q. That happens on an annual basis this

11:47:05 11 calibration you described?

11:47:08 12 A. Yes.

11:47:08 13 Q. So the individual you said who reports to

11:47:12 14 you who is a level 8 who is that individual with

11:47:17 15 respect to the real estate function?

11:47:18 16 A. Currently its there is a level 8 in 3

11:47:25 17 regions we have a regional structure and the

11:47:29 18 Americas level 8 our director is Nat Sahlstrom.

11:47:35 19 Q. How long has Nat been in that role?

11:47:44 20 A. 2 months.

11:47:45 21 Q. Prior to gnat's recent role who is is

11:47:49 22 level 8 in the nationals function under beneath

11:47:51 23 you?

11:47:52 24 A. Gnat's predecessor is a gentleman named

11:48:00 25 Khoaem Lockhandwala. Khozem was responsible for

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11:48:02 1 global plan an build so gnat's role as a result of

11:48:05 2 a bit and very recent enactive reorganization.

11:48:09 3 Q. Is Khozem still with AWS?

11:48:13 4 A. No he's no longer with AWS.

11:48:18 5 Q. Do you know why he left?

11:48:19 6 A. Yes.

11:48:19 7 Q. Why did he leave?

11:48:22 8 A. To pursue another opportunity at a

11:48:24 9 datacenter provider.

11:48:32 10 Q. Who is that?

11:48:34 11 A. Encroak E B Q U E.

11:48:38 12 Q. Are you aware he's doing the same thing at

11:48:40 13 enrevoke that he was doing at AWS same sort of

11:48:44 14 thing?

11:48:45 15 A. No, that's not the way it was described to

11:48:47 16 me. His primary responsibility the chief

11:48:50 17 financial officer.

11:48:51 18 Q. Do you have any concerns about him taking

11:48:54 19 a job in the datacenter space?

11:48:56 20 MS. PAPEZ: Objection to form.

11:49:00 21 A. No, not particular.

11:49:00 22 BY MR. LITTLE:

11:49:02 23 Q. There's certainly nothing improper about

11:49:04 24 him doing so is there?

11:49:07 25 MS. PAPEZ: Objection to form.

11:49:07 1 A. In this case. No.

11:49:07 2 BY MR. LITTLE:

11:49:13 3 Q. How long was Khozem in that role
11:49:16 4 approximately?

11:49:20 5 A. Khozem was in the director datacenter
11:49:22 6 planning an delivery role for approximately 2
11:49:24 7 years.

11:49:25 8 Q. Who was his predecessor?

11:49:41 9 A. I don't know who SIS predecessor was we
11:49:43 10 had a different work struck which you shall so
11:49:45 11 there were different people involved at that time.

11:49:48 12 Q. Are you aware of an individual who worked
11:49:49 13 at AWS named Karen Davenport?

11:49:52 14 A. I am.

11:49:52 15 Q. Was she also a level 8 director during her
11:49:55 16 time there?

11:49:55 17 A. Yes, she was.

11:49:56 18 Q. Were you aware of where she was in the
11:50:00 19 Amazon sort of hierarchy?

11:50:03 20 MS. PAPEZ: Objection to form.

11:50:05 21 A. Yeah I'm aware of where she was in the
11:50:07 22 heirarchy as director and leader of that function.

11:50:07 23 BY MR. LITTLE:

11:50:11 24 Q. What was the function that you understood
11:50:13 25 she had at the time she was at AWS?

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11:50:15 1 A. Karen led our I believe it was our global

11:50:19 2 real estate function.

11:50:22 3 Q. Was that at a time when the function was

11:50:24 4 not separated into regions?

11:50:27 5 MS. PAPEZ: Objection to form.

11:50:27 6 A. Yes.

11:50:27 7 BY MR. LITTLE:

11:50:29 8 Q. Who did Karen report to if you're aware?

11:50:31 9 A. Overtime she -- I mean she reported to a

11:50:39 10 number of people. Myself included at one point.

11:50:43 11 Q. The change because of reorganizations and

11:50:47 12 no other reason?

11:50:49 13 MS. PAPEZ: Objection to form.

11:50:49 14 A. No. Changes due to reorganization,

11:50:54 15 changes due to people coming and going from the

11:50:57 16 company.

11:50:57 17 BY MR. LITTLE:

11:50:59 18 Q. Okay. Understood. You described that Nat

11:51:05 19 Sahlstrom, do you have that name correctly?

11:51:07 20 A. Yes.

11:51:07 21 Q. Is currently the level 8 for the Americas;
11:51:11 22 is that right?
11:51:11 23 A. Yes.
11:51:12 24 Q. There are -- are there other -- let me ask
11:51:18 25 you this who is Keith Klein?

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11:51:21 1 A. Keith is a level 7 manager for the real
11:51:30 2 estate senior manager for the Americas.
11:51:31 3 Q. Does he work under Nat Sahlstrom?
11:51:34 4 A. Yes.
11:51:35 5 Q. Do you have much if any direct contact
11:51:37 6 with Keith?
11:51:37 7 A. I have occasional contact with Keith yes.
11:51:40 8 Q. What is the context of that contact?
11:51:48 9 A. Generally our contact is when I have
11:51:50 10 questions about a particular supply plan or
11:51:52 11 perhaps real estate transaction.
11:51:59 12 Q. Does Keith have transaction managers who
11:52:01 13 report to him, he does. I guess we should talk
11:52:11 14 about the chain you who is the person directly
11:52:14 15 above you who you talk to?
11:52:15 16 A. I work for /PRA sad. /TPHEZ /PRA sad I

11:52:21 17 can't really pronounce his last name its very

11:52:23 18 long.

11:52:24 19 Q. What is his title?

11:52:26 20 A. Vice president Amazon infrastructure

11:52:30 21 services.

11:52:32 22 Q. Does he report to someone him as well?

11:52:36 23 A. Yes he reports to Adam Selipski.

11:52:41 24 Q. What is Adam's title?

11:52:43 25 A. I believe Adam's title is CEO Amazon web

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11:52:47 1 service.

11:52:47 2 Q. That's the current structure correct?

11:52:51 3 A. In AWS yes.

11:52:52 4 Q. Previously was there a time where you ever

11:52:56 5 reported to Peter DeSantis?

11:53:04 6 A. Yes.

11:53:04 7 Q. And was there a time when you record today

11:53:07 8 him he reported to Andy Jassy as the CEO of AWS?

11:53:12 9 A. Yes.

11:53:12 10 Q. Was that as recently as 2019?

11:53:15 11 MS. PAPEZ: Objection to form.

11:53:17 12 A. Yes in 2019 I reported to Peter DeSantis.

11:53:17 13 BY MR. LITTLE:

11:53:24 14 Q. Where is Peter DeSantis now?

11:53:26 15 A. Peter is still with AWS he reports to Adam

11:53:31 16 Selipski.

11:53:31 17 Q. Do you know what his title is?

11:53:33 18 A. I believe his title is vice president --

11:53:38 19 it may be senior vice president utility computing.

11:53:44 20 Q. So in the role you have now how many years

11:53:47 21 have you been involved in the buying land or

11:53:50 22 leasing datacenter in the Americas?

11:53:53 23 MS. PAPEZ: Objection to form.

11:53:54 24 A. Directly probably two years approximately.

11:54:06 25 Indirectly kind of going back through roles like

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11:54:09 1 planning roles where I was providing input signals

11:54:13 2 probably say five yearsish.

11:54:14 3 Q. Is that part of your role today?

11:54:17 4 A. Yes, it is.

11:54:20 5 Q. Shifting gears a little bit but still

11:54:24 6 talking about your employment do you know what

11:54:26 7 your terms of employment are at AWS?

11:54:30 8 MS. PAPEZ: Objection to form.

11:54:31 9 A. -- sorry Mr. Vonderhaar you paused on

11:54:47 10 there for a minute.

11:54:48 11 A. I lost all of you there for a minute I

11:54:50 12 don't know what happened there.

11:54:52 13 Q. No more reads if it happen where is you

11:54:55 14 totally loose us to do you have a way to's it's

11:54:58 15 contact Ms. /PE /PEZ by cell phone or otherwise?

11:55:03 16 A. I can dial back in if it drops for

11:55:06 17 whatever reason.

11:55:07 18 Q. Want to make sure we have an alternate

11:55:10 19 source if we got forbid lost the internet in an

11:55:15 20 AWS deposition that would be it's Ron in this

11:55:20 21 case?

11:55:20 22 A. That would be unfortunate.

11:55:21 23 Q. Not enough supply for the demand?

11:55:24 24 Q.

11:55:25 25 DEFENSE COUNSEL: The question I had was

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11:55:26 1 do you know what your terms of employment are at

11:55:29 2 AWS.

11:55:29 3 MS. PAPEZ: Objection to form.

11:55:30 4 A. I don't know them specifically.

11:55:30 5 BY MR. LITTLE:

11:55:40 6 Q. Where are they contained if anywhere?

11:55:42 7 MS. PAPEZ: Objection to form.

11:55:42 8 A. I'm not sure where the terms of employment

11:55:44 9 are maintained.

11:55:44 10 BY MR. LITTLE:

11:55:46 11 Q. Have you ever signed an employment

11:55:48 12 contract with AWS?

11:55:50 13 MS. PAPEZ: Objection to the form.

11:55:55 14 A. I don't know that it was an employment

11:55:56 15 contract. I signed -- I know I signed a

11:56:00 16 nondisclose your agreement many years ago.

11:56:00 17 BY MR. LITTLE:

11:56:03 18 Q. Did you sign that when you first started

11:56:05 19 at AWS?

11:56:06 20 A. Yes.

11:56:06 21 Q. Have you signed amendments to it sense you

11:56:18 22 started?

11:56:18 23 A. Not that I can recall.

11:56:20 24 MS. PAPEZ: Objection to form.

11:56:20 25 BY MR. LITTLE:

11:56:22 1 Q. Have you ever sign Carl Nelson's

11:56:23 2 employment contract?

11:56:24 3 MS. PAPEZ: Objection to form.

11:56:25 4 A. No, I have not.

11:56:26 5 Q. So you don't though how your employment

11:56:30 6 contract may compare to his correct?

11:56:33 7 MS. PAPEZ: Objection to form.

11:56:33 8 A. That is correct.

11:56:33 9 BY MR. LITTLE:

11:56:37 10 Q. In your previous role was it British

11:56:41 11 Telecom B T?

11:56:42 12 A. Yes.

11:56:42 13 Q. Did you have an employment contract there?

11:56:46 14 MS. PAPEZ: Objection to form.

11:56:48 15 A. I had some sort of employment agreement.

11:56:51 16 I'm not sure if it was a contract it was something

11:56:55 17 I signed.

11:56:55 18 BY MR. LITTLE:

11:56:57 19 Q. Did you have a similar court of

11:56:58 20 contractor agreement when you were at level 3?

11:57:02 21 MS. PAPEZ: Objection to form.

11:57:07 22 A. I don't recall.

11:57:07 23 BY MR. LITTLE:

11:57:16 24 Q. Beside what is may be in your employment
11:57:17 25 contract are you aware of any fiduciary duties

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11:57:20 1 that you have to AWS?

11:57:27 2 MS. PAPEZ: Objection Form.

11:57:27 3 A. I'm not sure what you mean by fiduciary
11:57:29 4 duties can you clarify.

11:57:29 5 BY MR. LITTLE:

11:57:32 6 Q. Do you know whether or not you're an
11:57:33 7 offer of AWS?

11:57:37 8 MS. PAPEZ: Objection. Form.

11:57:37 9 A. I believe I'm an officer in some regard
11:57:40 10 for contracts and things of that nature.

11:57:40 11 BY MR. LITTLE:

11:57:43 12 Q. Are you able to bind AWS or obligate --
11:57:47 13 -- strike that. Are you able to obligate AWS to
11:57:51 14 contracts with your signature?

11:57:54 15 MS. PAPEZ: Objection. Form.

11:57:54 16 A. I believe I am.

11:57:54 17 BY MR. LITTLE:

11:57:55 18 Q. Are you able to make approvals to commit

11:57:59 19 Amazon to spending money?

11:58:02 20 MS. PAPEZ: Objection. Form.

11:58:02 21 A. Yes.

11:58:02 22 BY MR. LITTLE:

11:58:07 23 Q. Are you generally aware that officers of

11:58:10 24 companies have fiduciary duties to the company?

11:58:15 25 MS. PAPEZ: Objection. Form.

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11:58:15 1 A. Generally aware yes.

11:58:15 2 BY MR. LITTLE:

11:58:19 3 Q. But fair to say you don't know the

11:58:20 4 specifics of that duty?

11:58:23 5 MS. PAPEZ: Objection. Form.

11:58:25 6 A. That is fair to say I have never viewed

11:58:28 7 any specific detail.

11:58:34 8 Q. Sitting there today if you have a question

11:58:43 9 about your fiduciary to Amazon do you believe

11:58:46 10 there's document that lays that out?

11:58:49 11 MS. PAPEZ: Objection. Form.

11:58:49 12 A. Beyond the very general I'm not --

11:58:51 13 basically color conduct stuff I'm not aware of the

11:58:56 14 specific document.

11:58:56 15 BY MR. LITTLE:

11:58:57 16 Q. If you had a question about that who would
11:58:59 17 you ask?

11:59:02 18 A. I would approach my legal business
11:59:04 19 partners.

11:59:05 20 Q. Who in particular in the legal business
11:59:08 21 partners do you work with would you ask?

11:59:11 22 MS. PAPEZ: Objection. Form.

11:59:11 23 A. Kind of depends on the nature of question
11:59:19 24 there are different legal partners for different
11:59:22 25 function.

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11:59:22 1 BY MR. LITTLE:

11:59:23 2 Q. Specification cliff on question with any
11:59:25 3 fiduciary duty you may have with respect to AWS
11:59:28 4 who would you approach to the with the question
11:59:30 5 relate today that?

11:59:32 6 MS. PAPEZ: Objection. Form.

11:59:32 7 A. If it was related to my duty on signing
11:59:35 8 contracts, I would approach members of our legal
11:59:38 9 groups supporting our real estate.

11:59:38 10 BY MR. LITTLE:

11:59:41 11 Q. Do you know whether or not Amazon has a

11:59:42 12 conflict of interest policy?

11:59:45 13 MS. PAPEZ: Objection. Form.

11:59:48 14 A. We have a code of conduct that covers

11:59:51 15 conflicts of interest.

11:59:51 16 BY MR. LITTLE:

11:59:54 17 Q. So beside the code of conflict -- conduct

12:00:01 18 that you just mentioned there any other policy

12:00:03 19 that you're aware of that relates to conflicts of

12:00:05 20 interest?

12:00:06 21 A. Not that I'm aware of.

12:00:07 22 Q. What is your understanding of the code of

12:00:09 23 conduct provisions that relate to conflicts of

12:00:16 24 interest?

12:00:19 25 MS. PAPEZ: Objection. Form.

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12:00:19 1 A. I believe that the basic tenants of our

12:00:22 2 code of conduct are one act on behalf of the

12:00:32 3 company put the company first in all of our

12:00:34 4 business dealings abnot act on behalf half of

12:00:39 5 ourself as some other third-party and second key

12:00:43 6 tenant of our code of conduct is around
12:00:45 7 committeeing to as an employee to disclose any
12:00:55 8 relationships or business dealings that may affect
12:00:58 9 our judgement or our duty to execute transactions
12:01:03 10 on on behalf of the company.

12:01:03 11 BY MR. LITTLE:

12:01:12 12 Q. Are you aware whether the code of conduct
12:01:14 13 has any information about where employees should
12:01:18 14 go with questions about the code of conduct?

12:01:23 15 MS. PAPEZ: Objection. Form.

12:01:23 16 A. I believe the code of conduct points
12:01:27 17 employees to various contexts in our legal
12:01:33 18 department should we have questions or concerns
12:01:39 19 about those two primary duties.

12:01:39 20 BY MR. LITTLE:

12:01:42 21 Q. About how many people approximately are
12:01:43 22 in -- let me ask one more question on the code of
12:01:47 23 conduct. Do you know where the code of conduct
12:01:49 24 permits Amazon employees to receive giftes from
12:01:51 25 vendors?

12:01:53 1 MS. PAPEZ: Objection. Form.

12:01:55 2 A. The code of conduct prohibits Amazon

12:02:00 3 employees specifically infrastructure where we

12:02:02 4 have a zero dollar gift policy from receiving

12:02:07 5 giftes from vendors.

12:02:07 6 BY MR. LITTLE:

12:02:09 7 Q. Has that always been the policy of AWS?

12:02:14 8 MS. PAPEZ: Objection. Form.

12:02:15 9 A. Its changed a little bit over time but I

12:02:18 10 don't remember specifics but generally it's been a

12:02:20 11 no gift policy.

12:02:20 12 BY MR. LITTLE:

12:02:24 13 Q. Do you recall or are you aware that before

12:02:27 14 2018 it did per nit gifts?

12:02:29 15 MS. PAPEZ: Objection. Form.

12:02:32 16 A. I'm not aware of the specifics.

12:02:32 17 BY MR. LITTLE:

12:02:35 18 Q. Is it possible or do you have any reason

12:02:37 19 to doubt that the policy before 2018 did allow

12:02:40 20 giftes from vendors to Amazon employees.

12:02:42 21 A. It is possible that it allowed gifts of

12:02:47 22 very small amounts, yes.

12:02:50 23 Q. Would you consider a dinner that is paid

12:02:53 24 for by a vendor to be a small amount?

12:02:57 25 MS. PAPEZ: Objection. Form.

12:02:57 1 A. No, actually. A small amount is more in
12:03:02 2 the area of 50 dollars.

12:03:02 3 BY MR. LITTLE:

12:03:05 4 Q. So before 2018 were you aware of Amazon
12:03:08 5 employees going AWS going to in infrastructure
12:03:12 6 going to dinner with vendors?

12:03:14 7 A. Yes employees from time to time will have
12:03:18 8 dinner with vendors.

12:03:19 9 Q. And an those occasions were you aware that
12:03:23 10 Amazon employeess were letting the vendors pay for
12:03:26 11 the dinners?

12:03:28 12 MS. PAPEZ: Objection. Form.

12:03:28 13 A. I'm not aware of any specific details on
12:03:31 14 that.

12:03:31 15 BY MR. LITTLE:

12:03:32 16 Q. If you became aware of that what steps
12:03:35 17 would you take?

12:03:37 18 MS. PAPEZ: Objection. Form.

12:03:43 19 A. I think if an employee has a dinner that
12:03:47 20 the vendor paid for we would want to disclose
12:03:51 21 that.

12:03:51 22 Q. If it wasn't disclosed what would the

12:03:54 23 consequences be?

12:03:55 24 MS. PAPEZ: Objection. Form.

12:03:56 25 A. I think that depends on the vendor and

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12:03:58 1 nature of dinner, etc.

12:03:58 2 BY MR. LITTLE:

12:04:00 3 Q. Are you aware of any AWS employees

12:04:02 4 attending sporting events with vendors?

12:04:08 5 MS. PAPEZ: Objection. Form.

12:04:08 6 A. It's not aware of that currently.

12:04:08 7 BY MR. LITTLE:

12:04:13 8 Q. Current or ever -- I want to clarify

12:04:15 9 you're Mott aware of it today happening or you're

12:04:18 10 never aware of it happening?

12:04:21 11 MS. PAPEZ: Objection. Form.

12:04:21 12 A. I cannot point to any example since I have

12:04:23 13 been here of any employee I know of going to a

12:04:27 14 sporting event with a vendor.

12:04:30 15 BY GOVERNMENT COUNSEL:

12:04:31 16 Q. So yesterday Keith Klein do you know who

12:04:34 17 he is?

12:04:34 18 A. I do.

12:04:36 19 Q. Keith Klein testified that he gone to a

12:04:39 20 sporting event in Seattle that was paid for by a

12:04:42 21 vendor. You were not aware of that?

12:04:45 22 MS. PAPEZ: Objection. Form.

12:04:45 23 A. I was not aware of that.

12:04:45 24 BY MR. LITTLE:

12:04:47 25 Q. Were you aware of engineering in AWS being

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12:04:50 1 flown by vendors to private jets to sporting

12:04:54 2 events?

12:04:57 3 MS. PAPEZ: Objection. Form.

12:04:57 4 A. No I'm not aware of that.

12:04:57 5 BY MR. LITTLE:

12:04:59 6 Q. Were you aware of any engineerings within

12:05:01 7 AWS going to an F 1 race formula one race paid for

12:05:06 8 by a vendor?

12:05:08 9 MS. PAPEZ: Objection. Form.

12:05:08 10 A. I am aware of members of our security team

12:05:12 11 who have an engagement with a company could cloud

12:05:17 12 stripe who has an involvement with formula one but

12:05:20 13 I don't know the details of those relationships or
12:05:23 14 events involved.

12:05:23 15 BY MR. LITTLE:

12:05:24 16 Q. You are aware that cloud strike paid for
12:05:26 17 them to take a strip to C an F 1 race?

12:05:31 18 MS. PAPEZ: Objection. Form.

12:05:31 19 A. No I'm not aware of that.

12:05:31 20 BY MR. LITTLE:

12:05:33 21 Q. Are you aware they went to an F one race
12:05:35 22 engineering working with cloud strike.

12:05:38 23 A. I'm aware of at least one person who has a
12:05:45 24 relationship with cloud strike -- business
12:05:48 25 relationship who may have attended I believe

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12:05:50 1 attend add formula one race.

12:05:52 2 Q. Who is that individual?

12:05:54 3 A. C J Moses.

12:05:56 4 Q. Did CJ Moses paid for his travel to the F1
12:06:03 5 race?

12:06:03 6 MS. PAPEZ: Objection. Form.

12:06:03 7 A. I have no idea.

12:06:03 8 BY MR. LITTLE:

12:06:06 9 Q. Did Amazon pay for him cost of his travel?

12:06:09 10 MS. PAPEZ: Objection. Form.

12:06:10 11 A. I don't know.

12:06:10 12 BY MR. LITTLE:

12:06:13 13 Q. Is he a former FBI agent?

12:06:17 14 MS. PAPEZ: Objection. Form.

12:06:19 15 A. I'm not sure. I think so but I'm not

12:06:21 16 sure.

12:06:21 17 BY MR. LITTLE:

12:06:22 18 Q. Was he a former law enforcement agent

12:06:27 19 according to your knowledge?

12:06:27 20 A. I believe he is. Yes.

12:06:29 21 Q. Is it common for -- strike that. You

12:06:37 22 testified that you knew an AWS employee travel was

12:06:42 23 it international travel or domestic travel?

12:06:47 24 MS. PAPEZ: Objection. Form.

12:06:47 25 A. I don't know any of the specifics the

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12:06:49 1 formula one CJ event.

12:06:49 2 BY MR. LITTLE:

12:06:52 3 Q. How did you learn any specifics how did

12:06:53 4 you learn any detail of cloud strike trip that

12:06:56 5 Mr. Moses went on?

12:07:00 6 A. I'm not -- I believe through the

12:07:03 7 grapevine. I'm not sure. I'm not sure who, when.

12:07:07 8 I can't how even what context I learned of it.

12:07:11 9 Q. Are you aware of Tesla bringing Amazon

12:07:15 10 employees on trips at any time?

12:07:20 11 MS. PAPEZ: Objection. Form.

12:07:20 12 A. No, not aware of that.

12:07:22 13 Q.

12:07:27 14 MS. PAPEZ: Objection. Form how many people

12:07:39 15 are under your organization direct reports.

12:07:42 16 A. Amazon employees approximately 13,000ish.

12:07:45 17 Today currently I have about 15 direct reports.

12:07:54 18 Q. Going back to that in one second but I do

12:07:57 19 want to ask about a few more employees. Do you

12:07:59 20 know who Bowen Wallace is at AWS?

12:08:02 21 A. I do know Bowen when he worked at AWS.

12:08:05 22 Q. Do you know /TKAOE /KWRAPB right /STEPB

12:08:08 23 when he was at AWS?

12:08:10 24 A. Yeah, I know Ian rite sen /(.

12:08:14 25 Q. Is he still at AWS?

12:08:16 1 A. /AOEPB rite sen is no longer here.

12:08:18 2 Q. Did you ever know that either of them had
12:08:20 3 gone to dinners paid for by vendors during their
12:08:24 4 time at AWS?

12:08:29 5 MS. PAPEZ: Objection. Form.

12:08:29 6 A. I'm not aware of dinners that went to paid
12:08:32 7 for by vendors.

12:08:32 8 BY MR. LITTLE:

12:08:34 9 Q. Are you aware of any Amazon employee at
12:08:37 10 AWS being disciplined for going to dipper with a
12:08:39 11 vendor and the vendor paid for that dinner?

12:08:43 12 MS. PAPEZ: Objection. Form.

12:08:44 13 A. I'm not aware of any disciplinary action
12:08:49 14 taken against any employee for attending a dinner
12:08:52 15 paid for the by a vendor.

12:08:52 16 BY MR. LITTLE:

12:08:55 17 Q. Are you aware of any AWS employee who was
12:08:57 18 disciplined for violating the gift policy that you
12:09:02 19 testified about previously?

12:09:04 20 MS. PAPEZ: Objection. Form.

12:09:04 21 A. I do not.

12:09:04 22 BY MR. LITTLE:

12:09:12 23 Q. We've been going for almost an hour let me

12:09:14 24 ask list couple questions are you aware of an
12:09:16 25 employee named a vas doe moral less?

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12:09:20 1 A. Yes, I know Oz.
12:09:21 2 Q. Do you have a nickname is it Oz?
12:09:26 3 A. Yes.
12:09:26 4 Q. What level is Oz when you were colleagues?
12:09:28 5 A. Oz was a vice president when he left AWS
12:09:34 6 when I started he was the director.
12:09:36 7 Q. And vice president that's your level.
12:09:38 8 Level 10?
12:09:40 9 A. Correct.
12:09:40 10 Q. And what level were you when Oz was a
12:09:43 11 level 10?
12:09:44 12 A. For a while I was a level 8 director and
12:09:49 13 later at a level ten.
12:09:51 14 Q. Do you know the circumstances regarding
12:09:53 15 his departure from AWS?
12:10:02 16 MS. PAPEZ: Objection. Form.
12:10:02 17 A. I don't know if circumstances around his
12:10:04 18 departure.
12:10:04 19 BY MR. LITTLE:

12:10:06 20 Q. Do you know where Oz currently works?

12:10:11 21 A. Yes.

12:10:11 22 Q. Where is that?

12:10:12 23 A. I believe he's at Microsoft currently.

12:10:14 24 Q. Does he work as far as you know in the
12:10:17 25 cloud computing space at Microsoft?

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12:10:19 1 A. I believe he.

12:10:22 2 MS. PAPEZ: Objection. Form.

12:10:22 3 A. I do believe he's in the cloud computing
12:10:25 4 an datacenter space.

12:10:25 5 BY MR. LITTLE:

12:10:27 6 Q. Did you ever hear Oz use foul language
12:10:31 7 during his time at AWS?

12:10:34 8 MS. PAPEZ: Objection. Form.

12:10:34 9 A. Yes.

12:10:34 10 BY MR. LITTLE:

12:10:35 11 Q. Did he frequently use the word fuck?

12:10:41 12 MS. PAPEZ: Objection. Form.

12:10:41 13 A. Yes.

12:10:41 14 BY MR. LITTLE:

12:10:42 15 Q. Did he use that in meetings, correct?

12:10:48 16 MS. PAPEZ: Objection. Form.

12:10:48 17 A. Some smaller meetings yes.

12:10:48 18 BY MR. LITTLE:

12:10:51 19 Q. Would he use that when he directly spoke

12:10:53 20 to colleagues?

12:10:55 21 MS. PAPEZ: Objection. Form.

12:10:55 22 A. On occasion.

12:10:55 23 BY MR. LITTLE:

12:10:59 24 Q. Besides Oz did he have any other

12:11:01 25 nicknames?

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12:11:06 1 A. No. I only called him by Oz.

12:11:09 2 Q. Did you ever know anyone to call him a

12:11:13 3 tornado or hurricane?

12:11:15 4 A. No.

12:11:15 5 Q. Do you know whether Oz was fired for using

12:11:24 6 foul language?

12:11:26 7 MS. PAPEZ: Objection. Form.

12:11:26 8 A. I don't know what the reasons or details

12:11:28 9 were around his --

12:11:29 10 Q. Okay. This is as good a time as in we

12:11:35 11 have kind of gotten through the initial sort of
12:11:37 12 section it's been an hour is it okay to take a 10
12:11:40 13 minute break here Liz?
12:11:42 14 MS. PAPEZ: Sure of course.
12:11:44 15 MR. LITTLE: We'll try to not go more than
12:11:46 16 an hour at a time just for everyone's benefit
12:11:51 17 including mine. Its thousand 12:11 central if we
12:11:56 18 can come back in the 12:25 if we can come back
12:12:02 19 at -- its 12:12 eastern if we can all come back at
12:12:05 20 12:25 that will be perfect.
12:12:09 21 MS. PAPEZ: Thanks Alex.
12:12:11 22 THE VIDEOGRAPHER: Off the record at 12:12
12:12:17 23 p.m.
12:13:35 24 (A break was taken at [!Static Time - 12 Hour].)
12:13:35 25

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12:25:57 1 (Proceedings resumed at TIME
12:26:09 2 THE VIDEOGRAPHER: Back on the record at
12:26:11 3 12:26 p.m.
12:26:13 4 BY DEFENSE COUNSEL:
12:26:16 5 Q. Thank you Mr. Vonderhaar do you understand

12:26:18 6 you're still under oath?

12:26:20 7 A. Yes, sir.

12:26:21 8 Q. I'm going to turn to a different topic.

12:26:24 9 Are you aware that Amazon has what's called the

12:26:27 10 CAR process?

12:26:34 11 A. Yes, sir.

12:26:35 12 Q. What does CAR mean, C A R?

12:26:37 13 A. It means capital approval request.

12:26:40 14 Q. Have you ever heard it referred to as

12:26:46 15 capital appropriations request?

12:26:49 16 A. Yes.

12:26:49 17 Q. So when I use term CAR that you'll

12:26:52 18 understand that it means one of those things?

12:26:54 19 A. Yes.

12:26:54 20 Q. In your almost ten years now at Amazon has

12:27:03 21 the CAR process changed?

12:27:07 22 MS. PAPEZ: Objection. Form.

12:27:09 23 A. Its changed in how we execute it where we

12:27:09 24 have improvements and efficiencies and things like

12:27:18 25 that. Its generally not changed in terms of its

12:27:20 1 objectives and goals.

12:27:20 2 BY MR. LITTLE:

12:27:22 3 Q. What are the objectives and goals of the
12:27:24 4 CAR process?

12:27:25 5 A. The CAR process is a transaction review
12:27:29 6 and approval process where be we look at perhaps
12:27:34 7 in this case the acquisition of ass sets like real
12:27:39 8 estate or other things and review the whether
12:27:44 9 they're fit for purpose, whether they meet the
12:27:47 10 needs of business. We review the economics in
12:27:50 11 great detail and then based on that review, we
12:27:55 12 execute an approval that's captured as part of
12:27:58 13 process.

12:27:59 14 Q. Now, the CAR approval is it the only
12:28:03 15 approval that's required before for example a real
12:28:06 16 estate transaction is conducted?

12:28:06 17 MS. PAPEZ: Objection. Form.

12:28:12 18 A. The CAR approval is the I'll say the
12:28:15 19 financial approval for a given transaction. There
12:28:19 20 may be other approvals recorded in real estate
12:28:27 21 transactions or agreements or something like that.

12:28:27 22 BY MR. LITTLE:

12:28:30 23 Q. Let's talk about particularly real estate
12:28:33 24 transactions -- what type of real estate
12:28:37 25 transaction does AWS like to take?

12:28:40 1 A. Our real estate transactions include land
12:28:43 2 purchases, may include it may include
12:28:57 3 build-to-suit may include colocation third-party
12:29:00 4 datacenter capacity.

12:29:01 5 Q. Can you describe what it means to have a
12:29:03 6 build-to-suit transaction?

12:29:06 7 A. Generally it means we are engaging with a
12:29:11 8 developer who is who may bring the land as an
12:29:17 9 asset to the transaction and depending on the
12:29:25 10 structure of the transaction or deal we'll design
12:29:27 11 and build and commission a datacenter for us on
12:29:30 12 our behalf.

12:29:31 13 Q. How does that developer get paid?

12:29:31 14 MS. PAPEZ: Objection. Form.

12:29:40 15 A. The developer gets paid in rent or lease
12:29:46 16 payments that we make through a term.

12:29:46 17 BY MR. LITTLE:

12:29:58 18 Q. Lease limit discussion CARs to those 3
12:30:01 19 type of transactions is that okay with you?

12:30:04 20 A. The land, build-to-suit and colo.

12:30:06 21 Q. Yes, so we can focus discussion and I

12:30:09 22 understand there maybe other answers to different
12:30:11 23 parts depending on process but we'll focus on that
12:30:14 24 process?
12:30:14 25 A. Okay.

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12:30:17 1 Q. One follow-up question on the
12:30:19 2 build-to-suit is it possible in a build-to-suit
12:30:21 3 arrangement that the rent payments that Amazon
12:30:23 4 pays won't cover the developers cost?

12:30:23 5 MS. PAPEZ: Objection. Form.

12:30:31 6 A. I don't know. It should cover the
12:30:35 7 developers cost but I don't know specifically in
12:30:38 8 every.

12:30:38 9 BY MR. LITTLE:

12:30:40 10 Q. What's your understanding of how a
12:30:41 11 developer making money a build-to-suit deal with
12:30:44 12 Amazon?

12:30:44 13 MS. PAPEZ: Objection. Form.

12:30:45 14 A. My understanding is that the developer
12:30:46 15 makes money off of the rent payments made back to
12:30:51 16 the developer with some sort of mark up or margin.

12:30:51 17 BY MR. LITTLE:

12:30:56 18 Q. So is the profits as you understand that

12:30:58 19 mark up or margin?

12:30:58 20 MS. PAPEZ: Objection. Form.

12:31:02 21 A. I assume those profits cover their cost in

12:31:06 22 executing on our behalf.

12:31:06 23 BY MR. LITTLE:

12:31:08 24 Q. Are you generally aware that the folks

12:31:10 25 you're did dealing with in build-to-suit

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12:31:13 1 transactions want to make profits?

12:31:13 2 MS. PAPEZ: Objection. Form.

12:31:17 3 A. Yeah I assume so.

12:31:17 4 BY MR. LITTLE:

12:31:19 5 Q. Is Amazon concerned at all with how much

12:31:22 6 profit development partner makes on any particular

12:31:26 7 transaction it does with Amazon?

12:31:26 8 MS. PAPEZ: Objection. Form.

12:31:29 9 A. Yeah we care. We care because that profit

12:31:33 10 results in a higher cost for us.

12:31:33 11 BY MR. LITTLE:

12:31:37 12 Q. In terms of -- how does Amazon estimate

12:31:40 13 what the developers profit might be?

12:31:40 14 MS. PAPEZ: Objection. Form.

12:31:46 15 A. We rely on our real estate transaction

12:31:48 16 managers to negotiate and gather information from

12:31:56 17 the developer and represent all of the costs

12:31:59 18 associated with the transaction in our CAR process

12:32:03 19 so we can review how much we're spending and where

12:32:06 20 that money is going and for what purpose.

12:32:06 21 BY MR. LITTLE:

12:32:10 22 Q. When it comes to developers are there

12:32:12 23 circumstances in which Amazon may own land and

12:32:15 24 contract with the developer to bid the datacenter

12:32:18 25 that it uses on that land?

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12:32:21 1 MS. PAPEZ: Objection. Form it?

12:32:24 2 A. It is possible to pinpoint any one

12:32:26 3 specific example but it's possible.

12:32:26 4 BY MR. LITTLE:

12:32:28 5 Q. Does Amazon have its own team to also

12:32:31 6 create and build datacenters on its own land?

12:32:31 7 MS. PAPEZ: Objection. Form.

12:32:36 8 A. Yes, we have a construction team that

12:32:38 9 works with construction partners not necessarily
12:32:47 10 Amazon we have a construction team that engages
12:32:49 11 with those third parties with datacenter that
12:32:51 12 might be requireded.

12:32:51 13 BY MR. LITTLE:

12:32:53 14 Q. And those circumstances those developers
12:32:59 15 give you budgets for the costs to build on that
12:33:01 16 land that you have acquired?

12:33:03 17 A. I'm not -- the word budget throws me off
12:33:10 18 but we review the cost -- to make sure there's
12:33:10 19 transparency and an understanding of what the
12:33:12 20 costs are.

12:33:13 21 Q. I'll ask a last question that
12:33:16 22 build-to-suit transaction at this moment. In a
12:33:20 23 build-to-suit transaction because the developer
12:33:22 24 owns the land are you aware that sometimes
12:33:26 25 developers will sell the land when there's a lease

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12:33:29 1 still pending?

12:33:29 2 MS. PAPEZ: Objection. Form.

12:33:32 3 A.

12:33:32 4 DEFENSE COUNSEL: Sell the land to another

12:33:34 5 party.

12:33:35 6 MS. PAPEZ: Objection. Form.

12:33:36 7 A. It's aware that can occur. Yes.

12:33:36 8 BY MR. LITTLE:

12:33:39 9 Q. In doing so, they can capture a profit

12:33:42 10 from the sale of that land that has an active

12:33:46 11 lease on it?

12:33:46 12 MS. PAPEZ: Objection. Form.

12:33:49 13 A. Yes based on what you're describing that's

12:33:52 14 possible. I'm not aware again of how that occurs

12:33:55 15 and when if that had occurred.

12:33:55 16 BY MR. LITTLE:

12:34:05 17 Q. Are there times in which Amazon would

12:34:06 18 engage this a transaction with a development

12:34:08 19 partner without trying to seek the best market

12:34:12 20 price in the transaction?

12:34:12 21 MS. PAPEZ: Objection. Form.

12:34:24 22 A. No. We always want to get the best market

12:34:26 23 price for a transaction.

12:34:26 24 BY MR. LITTLE:

12:34:28 25 Q. If Amazon has not gotten the best market

12:34:30 1 price in a transaction would that be against

12:34:32 2 Amazon's best interest?

12:34:32 3 MS. PAPEZ: Objection. Form.

12:34:38 4 A. Generally yes if it's not in our best

12:34:41 5 interest however if there was a reason that we're

12:34:43 6 not going to get the best rate, we'll dig deep

12:34:48 7 into the reasons why and we'll consider it.

12:34:53 8 Q. Want to talk a little bit about the basic

12:34:58 9 for land acquisition for datacenters. Are you

12:35:02 10 involved is your don't involved in site selection

12:35:04 11 for datacenter?

12:35:07 12 MS. PAPEZ: Objection. Form yes, ma'am my

12:35:12 13 apartment is?

12:35:12 14 Q. When I use the term site selection what

12:35:16 15 does that mean within AWS if anything?

12:35:18 16 A. Site selection generally refers to how we

12:35:22 17 would do due diligence on a site that might be

12:35:25 18 appropriate for adding a datacenter and scaling

12:35:30 19 our.

12:35:30 20 Q. Are there certain pieces of real estate

12:35:32 21 that are not qualified so to speak to host a

12:35:37 22 datacenter?

12:35:42 23 A. Yes some properties are disqualifieds are

12:35:46 24 not.

12:35:46 25 Q. There's something called site

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12:35:48 1 qualification is that a term used within AWS?

12:35:51 2 A. Yes, referring to the due diligence on the
12:35:54 3 site.

12:35:54 4 Q. What types of due diligence are done on a
12:35:57 5 site. Are there different categories of due
12:36:00 6 diligence?

12:36:01 7 A. Yes, very generally or high level its kind
12:36:05 8 of a physical attributes of site. Soil, grade,
12:36:11 9 proximity, to risks to datacenters and then
12:36:15 10 there's other nonphysical things like ownership,
12:36:22 11 chain of custody if you will on real estate, any
12:36:27 12 liabilitys that might occur or risks that maybe
12:36:31 13 associated withed property.

12:36:32 14 Q. What are the availabilities within AWS
12:36:37 15 what does that term mean?

12:36:38 16 A. So within a given AWS region like in this
12:36:41 17 case IAD northern Virginia region it will be
12:36:48 18 comprised of three or four availability zones.
12:36:53 19 Those availability zones are simply groupings of

12:36:56 20 physical datacenters that create a logical
12:37:00 21 availability zone that customers use to distribute
12:37:04 22 their cloud workloads across with the intention of
12:37:08 23 providing a high availability in case we maybe we
12:37:13 24 lose access to one availability zone through
12:37:16 25 networking their services can continue to run in

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12:37:19 1 other availability zones.

12:37:20 2 Q. What you described that their services can
12:37:22 3 run if you lose availability is that known as
12:37:27 4 redundancy or is there another term for it?

12:37:29 5 A. I think you can refer to it as redundancy.
12:37:32 6 If customers use the availability zones in an
12:37:36 7 appropriate architecture they can create
12:37:39 8 redundancy.

12:37:40 9 Q. Is the technical structure of the
12:37:42 10 availability zones place requirements in terms of
12:37:45 11 where certain datacenters can or cannot be
12:37:49 12 situated?

12:37:49 13 A. Yes.

12:37:50 14 Q. You talked to mention that note working is
12:37:57 15 one component to datacenters and are there certain

12:38:03 16 area that have insufficient networking capacity to
12:38:06 17 make it possible to situation a data within that
12:38:09 18 area?

12:38:09 19 MS. PAPEZ: Objection. Form.

12:38:14 20 A. Generally not about the networking
12:38:15 21 capacity its going to be more specific to physical
12:38:18 22 distance an latency, how long it takes for traffic
12:38:22 23 to pass over the network that defines how far or
12:38:24 24 what sites might be candidates for datacenters.
12:38:24 25 BY MR. LITTLE:

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12:38:28 1 Q. And all the things you have mentioned
12:38:30 2 limit the available areas to build a datacenter
12:38:34 3 correct?

12:38:34 4 MS. PAPEZ: Objection. Form.

12:38:38 5 A. Yes. Availability of land, suitability of
12:38:42 6 land parcels and distance that creates latency and
12:38:48 7 its how far you can go out or how far away from
12:38:51 8 other datacenters.

12:38:52 9 Q. In the Americas -- I guess you mentioned
12:38:55 10 the word Amazon regions and I want to make sure I

12:38:58 11 understand that. What are Amazon regions or

12:39:01 12 regions within AWS?

12:39:03 13 A. I should probably use AWS but I'll using

12:39:09 14 Amazon am interchangeably case but an AWS region

12:39:14 15 refers to a group of availability zones and is

12:39:18 16 known as commercial region that will host multiple

12:39:21 17 customers, many customers. So we have commercial

12:39:25 18 regions roughly 20 something commercial regions

12:39:29 19 these days like IAD is one we have another one

12:39:32 20 this organ called P D X.

12:39:35 21 Q. If the commercial zones designate bid an

12:39:37 22 airported code of nearest international airport?

12:39:41 23 A. We use airport codes not necessarily

12:39:45 24 international airport codes.

12:39:47 25 Q. Airport codes for nearest airport is that

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12:39:51 1 fair to say?

12:39:51 2 A. Fair to say yes.

12:39:52 3 Q. What are the most congested -- let me say

12:39:56 4 it this way are some of regions in the Americas do

12:40:02 5 they have more datacenter capacity then other

12:40:06 6 regions?

12:40:06 7 MS. PAPEZ: Objection. Form.

12:40:13 8 A. Sol regions are larger in scale today than
12:40:15 9 overs.

12:40:15 10 BY MR. LITTLE:

12:40:16 11 Q. Are there some regions where it is nor
12:40:19 12 difficult to procure real estate for datacenters
12:40:21 13 than other regions?

12:40:21 14 MS. PAPEZ: Objection. Form.

12:40:24 15 A. There are -- its somewhat time dependent
12:40:27 16 but at different point this is time some regions
12:40:31 17 have are more competitive, are more challenging to
12:40:36 18 scale and acquire additional tasks than others but
12:40:40 19 it kind of ebbs and flows.

12:40:43 20 Q. How would you describe those issues with
12:40:47 21 respect to the IAD region presently?

12:40:47 22 MS. PAPEZ: Objection. Form.

12:40:52 23 A. Today as we sit here, IAD is a very
12:40:56 24 competitive marketplace. There are many companies
12:41:03 25 pursuing datacenter capacity in that Dulles IAD

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12:41:07 1 northern Virginia.

12:41:07 2 BY MR. LITTLE:

12:41:13 3 Q. Was that true in 2018?

12:41:13 4 MS. PAPEZ: Objection. Form.

12:41:16 5 A. Yes that was generally true in 2018.

12:41:16 6 BY MR. LITTLE:

12:41:19 7 Q. Is IAD the largest region in the AWS

12:41:23 8 network?

12:41:24 9 MS. PAPEZ: Objection. Form?

12:41:26 10 Q. With the Americas?

12:41:27 11 A. Yes, it's the largest AWS region in the

12:41:34 12 Americas.

12:41:34 13 BY MR. LITTLE:

12:41:36 14 Q. Why is that?

12:41:37 15 A. I would define large by scale. Scale

12:41:40 16 defined in the number of customers servers,

12:41:43 17 datacenters number of power under management.

12:41:45 18 Q. Why is IAD the largest in terms of scale

12:41:49 19 within AWS network?

12:41:52 20 A. IAD is our oldest region. Its it was the

12:41:57 21 first to launch,ing the first to host AWS cloud

12:42:02 22 services and many of our oldest earliest customer

12:42:08 23 who is had started using cloud have anchored in

12:42:12 24 IAD and grown in, A D group.

12:42:14 25 Q. Is it's fair to say that IAD is supported

12:42:17 1 for AWS revenue is excessive to IAD datacenter?

12:42:17 2 MS. PAPEZ: Objection. Form.

12:42:24 3 A. Yes that's accurate its important to us.

12:42:24 4 BY MR. LITTLE:

12:42:32 5 Q. Does IAD region also handle Government

12:42:34 6 customers for AWS services?

12:42:38 7 A. The IAD region likely hosts unclear

12:42:42 8 Government workloads yes. Appropriate for

12:42:44 9 commercial datacenter space.

12:42:46 10 Q. And so you mentioned commercial data

12:42:50 11 center space, AWS also provides Government data to

12:42:53 12 their space does it not?

12:42:54 13 A. We do provide private cloud services to

12:42:58 14 some Government agencies yes.

12:42:59 15 Q. And through those transactions those

12:43:04 16 datacenters can compete against commercial

12:43:07 17 datacenters this terms of AWS infrastructure leads

12:43:10 18 isn't that right?

12:43:10 19 MS. PAPEZ: Objection. Form.

12:43:13 20 A. I'm not sure what you mean by compete.

12:43:13 21 BY MR. LITTLE:

12:43:16 22 Q. So if you have -- when you talked about

12:43:18 23 capacity demand an supply Government customers can
12:43:23 24 place demands on AWS capacity correct?
12:43:27 25 A. Correct.

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12:43:28 1 Q. When you're doing demand for capacity you
12:43:31 2 have to account for commercial customers as well
12:43:34 3 as Government customers do you not?

12:43:36 4 A. We do.

12:43:36 5 Q. So if you build a datacenter to create
12:43:41 6 supply when you build that datacenter have you
12:43:45 7 already designated whether its going to be
12:43:47 8 supplying Government capacity or commercial
12:43:50 9 capacity?

12:43:50 10 MS. PAPEZ: Objection. Form.

12:43:52 11 A. Generally speaking we search for and
12:43:57 12 procure capacity for commercial datacenter
12:44:01 13 capacity or what we call our Amazon dedicated
12:44:06 14 cloud datacenter capacity.

12:44:06 15 BY MR. LITTLE:

12:44:08 16 Q. So I guess to re-ask the question at the
12:44:10 17 time you locate a site that's sufficient for

12:44:14 18 potential datacenter, do you know at the time you
12:44:17 19 secure I whether there's going to be commercial
12:44:20 20 capacity created there or Government capacity
12:44:23 21 created there, the dedicated capacity you just
12:44:28 22 mentioned?

12:44:29 23 MS. PAPEZ: Objection. Form.

12:44:31 24 A. Through our due diligence and through the
12:44:34 25 CAR process an our review of the potential site we

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12:44:37 1 generally know whether that capacity is
12:44:39 2 appropriate for and targeted for commercial
12:44:42 3 workloads or Government workloads.

12:44:42 4 BY MR. LITTLE:

12:44:45 5 Q. Are there times when those forecast an
12:44:47 6 requirements change quickly?

12:44:47 7 MS. PAPEZ: Objection. Form.

12:44:52 8 A. Yes, there are times when our demand
12:44:55 9 forecast customer demand forecast do change
12:44:58 10 quickly.

12:44:58 11 BY MR. LITTLE:

12:44:59 12 Q. Are you aware of the Joint Enterprise
12:45:02 13 Defense Initiative what that is?

12:45:05 14 A. I'm aware of JEDI which I think is what
12:45:07 15 you're referring to.

12:45:08 16 Q. Yes its commonly known as JEDI?

12:45:12 17 A. Yes.

12:45:12 18 Q. And was that a request proposal pout outed
12:45:14 19 by the Department of Defense for datacenter
12:45:17 20 services?

12:45:17 21 MS. PAPEZ: Objection. Form.

12:45:21 22 A. I'm not sure who the actual customer of
12:45:24 23 record was. I didn't have any involvement in
12:45:27 24 JEDI.

12:45:27 25 BY MR. LITTLE:

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12:45:27 1 Q. Were you ever given demand signals because
12:45:31 2 of JEDI bids that relate today IAD?

12:45:31 3 MS. PAPEZ: Objection. Form.

12:45:37 4 A. I specifically do not review any of those
12:45:41 5 demand projections or asked from that customer. I
12:45:45 6 just wasn't involved with JEDI.

12:45:45 7 BY MR. LITTLE:

12:45:48 8 Q. Were you present at any meetings where

12:45:50 9 there was a discussion of demands of JEDI putting
12:45:52 10 constraints on commercial capacity in the IAD
12:45:57 11 region?

12:45:57 12 MS. PAPEZ: Objection. Form.

12:45:58 13 A. No I don't recall being part of any
12:46:00 14 meetings where that was discussed.

12:46:00 15 BY MR. LITTLE:

12:46:09 16 Q. Now one of the things that effects the
12:46:11 17 ability of site selection is the access to power
12:46:15 18 correct?

12:46:18 19 A. Correct.

12:46:19 20 Q. If there are existing data centers as part
12:46:23 21 of an availability zone if Amazon wants to extend
12:46:27 22 or create more capacity in the same availability
12:46:30 23 zone is power sometime as constraint?

12:46:34 24 A. Yes at different points in time power can
12:46:38 25 be a constraint. Those constraints can be resolve

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12:46:46 1 overtime with additional capacity.

12:46:48 2 Q. As a result do you all work with power
12:46:50 3 providers thissed regions where you have
12:46:52 4 datacenters to ensure that your capacity is not

12:46:55 5 going to be affected by a lack of power?

12:46:55 6 MS. PAPEZ: Objection. Form.

12:47:00 7 A. Yes, we work with our power partners and
12:47:03 8 providers to plan.

12:47:06 9 Q.

12:47:06 10 BY DEFENSE COUNSEL:

12:47:07 11 Q. Are there times where the availability of
12:47:09 12 power determines what sites are suitable or not
12:47:11 13 suitable for expansion in an availability zone?

12:47:15 14 A. Yes. Sites -- availability of power and
12:47:20 15 typing and delivery of new power or more power may
12:47:25 16 impact our decision on what sites to acquire and
12:47:29 17 when.

12:47:30 18 Q. Said more colloquially you need power to
12:47:34 19 have a datacenter right?

12:47:34 20 MS. PAPEZ: Objection. Form.

12:47:35 21 A. That is a fair statement.

12:47:35 22 BY MR. LITTLE:

12:47:41 23 Q. If you don't have it you can't have a
12:47:43 24 datacenter without the power?

12:47:43 25 MS. PAPEZ: Objection. Form.

12:47:45 1 A. Right.

12:47:45 2 BY MR. LITTLE:

12:47:47 3 Q. Going back to the CAR process which it
12:47:49 4 sort of relates to I think I asked the objective
12:47:52 5 and goals and whether it's changed. So you had said
12:47:56 6 that the process may have changed. Let me go back
12:47:59 7 to that line of questions. What about the process
12:48:03 8 do you recall changing during the time that you
12:48:04 9 have been at AWS?

12:48:08 10 MS. PAPEZ: Objection. Form.

12:48:09 11 BY DEFENSE COUNSEL:

12:48:09 12 Q. But the process I mean, the CAR process
12:48:12 13 that you described?

12:48:12 14 MS. PAPEZ: Objection. Form.

12:48:14 15 A. A few things have changed over time. One
12:48:16 16 is you know the approvals required, what levels
12:48:23 17 kind of require or a what level of spend as noted
12:48:27 18 in our spending and transaction policy that has
12:48:30 19 changed and evolved over time. Some of tools
12:48:35 20 that we use have changed over time to try and
12:48:38 21 become more efficient and allow -- and drive more
12:48:42 22 consistency into the process based on things that
12:48:46 23 we learn along the way. The ownership and
12:48:50 24 accountability kind of ebbs and flows with the

12:48:54 25 different work changes that we have some of things

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12:48:56 1 we covered earlier may change to does what in the

12:49:02 2 process those are generally the changes that I

12:49:04 3 have seen.

12:49:04 4 BY MR. LITTLE:

12:49:04 5 Q. Let me ask you about the spending an

12:49:06 6 transaction policy does that set certain limits

12:49:08 7 for approvals to happen -- let me restate that

12:49:12 8 what does the transaction policy do?

12:49:15 9 A. Generally it says as a for example as an L

12:49:19 10 10 what dollar limit of spend commitment do I have

12:49:23 11 Amazon approval authority on and it varies for an

12:49:28 12 L 10 versus somebody else.

12:49:30 13 Q. Do you know what your level of approval is

12:49:33 14 authorized to what amount?

12:49:35 15 A. I don't actually know that today.

12:49:39 16 Q. Sit over 50 million?

12:49:43 17 A. I want to say it's under \$50 million

12:49:45 18 today.

12:49:46 19 Q. Has it gone down over time?

12:49:49 20 A. No. Generally it ahs not gone down,

12:49:55 21 generally it has gone up.

12:49:57 22 Q. If there was an amount of acquisition of

12:49:58 23 property that was over the amount that you're

12:49:59 24 authorized to approve, who would need to approve

12:50:02 25 it?

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12:50:04 1 A. The -- if it's over my approval amount

12:50:09 2 then I'm going to have to first I would seek input

12:50:13 3 from any boss to make sure he's good with it even

12:50:16 4 though his approval amount maybe the same as mine

12:50:19 5 in this case but then we have to go and get C, O

12:50:23 6 or S T VP approval.

12:50:26 7 Q. That's someone at the 11 or 12 level?

12:50:29 8 A. Yes.

12:50:29 9 Q. And the CEO would you aany deals which

12:50:34 10 isser which are the highest threshold in the spend

12:50:38 11 transaction policy?

12:50:38 12 MS. PAPEZ: Objection. Form.

12:50:40 13 A. There is a limit where we have to get CEO

12:50:43 14 and C P O.

12:50:43 15 BY MR. LITTLE:

12:50:45 16 Q. By CEO you would mean the CEO of AWS?

12:50:49 17 A. There were some approve value limits where
12:50:52 18 we have the get the Amazon CEO level.

12:50:56 19 Q. Do you know what those limits are?

12:50:57 20 A. I don't know them specifically.

12:50:59 21 Q. What tools have changed that have been
12:51:03 22 used in the CAR process?

12:51:03 23 MS. PAPEZ: Objection. Form.

12:51:08 24 A. A recent example would be in the past we
12:51:12 25 used what we call a trouble ticketing system or

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12:51:16 1 remedy which is simply a ticket that you can
12:51:22 2 templetize and capture answers to questions and
12:51:25 3 provide attachments and we have moved from a
12:51:27 4 trouble ticketing base testimony so what we call
12:51:30 5 annual approvals tool it's a more robust better
12:51:34 6 source of truth little bit more functional to
12:51:37 7 record approval as store information that's one
12:51:40 8 example.

12:51:40 9 Q. Most of those are on line tools that you
12:51:42 10 access through a web browser or another app on the
12:51:47 11 computer?

12:51:47 12 A. Yes.

12:51:47 13 Q. And do those trouble ticket and current

12:51:51 14 approval tool you're able to upload files and

12:51:54 15 they're saved online somewhere?

12:51:54 16 MS. PAPEZ: Objection. Form.

12:51:56 17 A. Yes those tools and others like them are

12:51:59 18 used in that way.

12:51:59 19 BY MR. LITTLE:

12:52:02 20 Q. Presumably on AWS server?

12:52:02 21 MS. PAPEZ: Objection. Form.

12:52:08 22 A. Presumably on our server and network yes.

12:52:08 23 BY MR. LITTLE:

12:52:11 24 Q. So in the context of these processes who

12:52:14 25 are the decision-makers -- let's start with the

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12:52:18 1 CAR that has to be a proved at a level 12 we the

12:52:24 2 CEO of AWS for the amount. Who would be the

12:52:28 3 decision-makers required to approve that car

12:52:34 4 before the is deemed approve?

12:52:36 5 MS. PAPEZ: Objection. Form.

12:52:36 6 A. The first level approval are going to be

12:52:39 7 to L 8s or the directors the some of the folks we
12:52:43 8 talked about earlier it will be Nat Sahlstrom or
12:52:47 9 in 2018, 2019 Carl, Casey, senior managers,
12:52:53 10 directors who approve bringing together these
12:52:57 11 details and recommend given parcel or that you
12:53:03 12 based on its attributes and financials for putting
12:53:08 13 it forth as a recommended acquisition through a
12:53:11 14 CAR transaction. After their review and approval
12:53:19 15 at L 8 level then it comes to myself and others at
12:53:22 16 the L ten level and by others I mean, myself in
12:53:26 17 the business and my finance partners and that have
12:53:28 18 some legal depends on the nature of the
12:53:30 19 transaction and then we approve it and at that
12:53:34 20 point we're basically approving the fitness of
12:53:39 21 acquisition that the financials are in budget in
12:53:44 22 plan and appropriate. We're approving any
12:53:49 23 extraordinary or unique attributes or terms or
12:53:53 24 conditions here. At that point I approve it and I
12:54:00 25 if it needs to go higher then I take it higher and

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12:54:04 1 put forward a recommendation to acquire and at that
12:54:07 2 transaction to somebody else.

12:54:10 3 Q. 2018 would that somebody else have been

12:54:12 4 Peter DeSantis?

12:54:14 5 A. In 2018 Peter would have been the aver me

12:54:19 6 that I recommend we approve yes.

12:54:21 7 Q. Who would be after Peter at that time

12:54:23 8 period?

12:54:23 9 A. If required it would have gone to Andy

12:54:27 10 Jassy as the CEO.

12:54:34 11 Q. Is it your understanding that Carl Nelson

12:54:36 12 and Casey Kirschner were level 8 directors at AWS?

12:54:43 13 A. No.

12:54:43 14 Q. What level were they at AWS?

12:54:48 15 A. Carl was an L 7 senior manager.

12:54:52 16 Q. So I just want to give you an opportunity

12:54:54 17 to correct the record on this.

12:54:56 18 Ms. Henderson, can you please read back

12:54:59 19 Mr. Vonderhaar's answer and I want to you listen

12:55:01 20 to see if you need to clarify part of his answer

12:55:03 21 can you read back his last answer -- would have

12:55:06 22 been two answers ago that conclude the reference

12:55:09 23 to Carl Nelson an Casey Kirschner?

12:55:09 24 (The requested answer was read back.)

12:55:09 25 BY MR. LITTLE:

12:56:19 1 Q. I just want to make sure when you saw that
12:56:22 2 answer you weren't suggesting that Carl Nelson or
12:56:27 3 Casey Kirschner were directors?

12:56:28 4 A. I wasn't very clear there. They were not
12:56:30 5 correct Doctor director so they wouldn't have any
12:56:33 6 director level approval it would have been in 2018
12:56:36 7 might have been at that time Karen Davenport,
12:56:41 8 would have been the L 8 director my mistake.

12:56:45 9 Q. That's what I wanted to make clear. I
12:56:45 10 thought you may have put a few concepts together
12:56:48 11 so in the CAR chain L 8, L ten, potentially L 11
12:56:53 12 or L 12 depends on the spend; is that a fair
12:56:57 13 description?

12:56:57 14 MS. PAPEZ: Objection. Form.

12:56:59 15 A. Yes that's a fair description.

12:56:59 16 BY MR. LITTLE:

12:57:02 17 Q. Were there types when you received a CAR
12:57:05 18 that you ultimately -- that you denied as it was
12:57:09 19 presented to you?

12:57:09 20 MS. PAPEZ: Objection. Form.

12:57:13 21 A. Yes.

12:57:13 22 BY MR. LITTLE:

12:57:15 23 Q. What were the reasons that you would deny

12:57:17 24 a CAR?

12:57:17 25 MS. PAPEZ: Objection. Form.

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12:57:21 1 A. I would -- the reasons varied quite

12:57:25 2 broadly. I would bucket them into first perhaps

12:57:30 3 the details of the CAR were not clear or complete

12:57:36 4 meaning we couldn't make an informed decision. Or

12:57:42 5 another common discussion was why is this the

12:57:48 6 right thing to do now versus later. That might

12:57:51 7 prompt us to reject it and say let's not purchase

12:57:56 8 this now let's defer and the third big area would

12:58:05 9 be if the transaction as presented just didn't

12:58:08 10 meet our business needs or wasn't fit for purpose

12:58:11 11 or had other liabilities or risks that we didn't

12:58:14 12 understand or want to engage in.

12:58:14 13 BY MR. LITTLE:

12:58:22 14 Q. Are there times when you recommended CARs

12:58:25 15 to Peter DeSantis when he was the level above you

12:58:28 16 that he denied as presented to him?

12:58:28 17 MS. PAPEZ: Objection. Form.

12:58:32 18 A. There were CARs that I wanted to Peter

12:58:35 19 that he -- mostly if I took them to Peter it
12:58:39 20 wasn't a denial it was a defer, go back and answer
12:58:44 21 these additional five questions you haven't
12:58:46 22 explained this clearly enough. It generally
12:58:48 23 wasn't an I'm not going to approve this. It was
12:58:52 24 show me this additional detail or clarity
12:58:56 25 clarification.

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12:58:56 1 BY MR. LITTLE:

12:58:57 2 Q. When Peter would give you those directives
12:59:00 3 would he do those in meetings?

12:59:00 4 MS. PAPEZ: Objection. Form.

12:59:02 5 A. I would get that directive sometime in the
12:59:05 6 meetings where we reviewed these CARs with him or
12:59:07 7 off line one to one with him.

12:59:07 8 BY MR. LITTLE:

12:59:10 9 Q. Let me back up. So there are a series of
12:59:13 10 CAR meetings are there not?

12:59:13 11 MS. PAPEZ: Objection. Form.

12:59:18 12 A. Yes, we generally revue a group of cars on
12:59:25 13 a very regular basis like we keep transaction

12:59:29 14 moving through the process.

12:59:29 15 BY MR. LITTLE:

12:59:31 16 Q. Is that also true of more senior levels

12:59:33 17 including the L 11 and L 12s?

12:59:33 18 MS. PAPEZ: Objection. Form.

12:59:38 19 A. In 2018 we did have a regular meeting with

12:59:43 20 Peter that eventually we retired and just

12:59:48 21 conducted via e-mail where I myself or others

12:59:51 22 would recommend or propose X number of CAR

12:59:54 23 transactions for his approval via e-mail.

12:59:57 24 Q.

12:59:58 25 BY DEFENSE COUNSEL:

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12:59:58 1 Q. In the 2018 meetings you had with Pete e

13:00:02 2 DeSantis would he document his reasons for making

13:00:05 3 decisions in any fashion outside of the meeting?

13:00:05 4 MS. PAPEZ: Objection. Form.

13:00:10 5 A. Generally no. We would get verbal

13:00:13 6 questions that we would write down and go off and

13:00:17 7 answer.

13:00:23 8 Q. Are you aware of why Peter would make the

13:00:25 9 decisions he would in those meeting about CARS?

13:00:25 10 MS. PAPEZ: Objection. Form.

13:00:29 11 A. Yes, his again his decisions were often
13:00:31 12 formed -- formulated as questions or challenges
13:00:38 13 where we hadn't been clear or complete in our
13:00:41 14 representation of the details.

13:00:41 15 BY MR. LITTLE:

13:00:49 16 Q. Is there such thing as a CAR document?

13:00:49 17 MS. PAPEZ: Objection. Form.

13:00:54 18 A. Yes, for the purposes of reviewing
13:00:58 19 efficiently we take relevant details from the many
13:01:06 20 CAR documents and details in that document that
13:01:09 21 are captured by real estate transaction managers,
13:01:13 22 finance and others and we summarize those into a
13:01:19 23 very straightforward templetized paragraph with a
13:01:24 24 few details associated with it we refer to that as
13:01:27 25 a CAR document.

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13:01:28 1 Q. Does that CAR document change from the
13:01:30 2 time its presented to transaction manager to the
13:01:33 3 time its presented to the ultimate decision
13:01:35 4 manager?

13:01:35 5 A. Frequently yes.

13:01:36 6 Q. And who is involved this making the
13:01:39 7 changes to that document as that process unfolds?

13:01:43 8 A. The owners of the respective proposals so
13:01:46 9 in the case of a real estate transaction a real
13:01:52 10 estate transaction manager will assemble author
13:01:55 11 and edit a CAR document as well as an underlying
13:01:58 12 details right up to the point that its proposed
13:02:02 13 for approval.

13:02:03 14 Q. Can there be other people for example if a
13:02:06 15 transaction manager drafts a car and an L ten
13:02:09 16 believes something is relevant or not relevant can
13:02:12 17 the L-10 make edits and suggestions to portions of
13:02:16 18 that CAR?

13:02:16 19 A. Yes, if I think something is missing or if
13:02:20 20 I think something has been either misrepresented
13:02:24 21 or more generally not represented clearly I will
13:02:27 22 offer suggestions, edits, sample language to help
13:02:33 23 educate and move things along.

13:02:34 24 Q. So were there times where you would edit
13:02:40 25 the CAR summarys that you would present to Peter

13:02:43 1 DeSantis for example?

13:02:45 2 A. There were a few occasions where I would
13:02:49 3 take the pen and I would reword something to make
13:02:53 4 it a little bit more easier for Peter to
13:02:56 5 understand based on his perspective or his
13:02:59 6 context.

13:03:00 7 Q. Does the CAR approval tool or previously
13:03:03 8 the trouble ticket pool provide you with the
13:03:06 9 capacity to see who has made specific eddies to a
13:03:09 10 document as it proceeds through the process?

13:03:12 11 MS. PAPEZ: Objection. Form.

13:03:13 12 A. I don't know. I have not gone into the
13:03:20 13 tool to see who's changed what I usually see the
13:03:22 14 finished product.

13:03:22 15 BY MR. LITTLE:

13:03:27 16 Q. So understand that you're one of formal
13:03:29 17 approvals of CARs. What does it mean to be an
13:03:34 18 approver of a CAR?

13:03:34 19 MS. PAPEZ: Objection. Form.

13:03:36 20 A. It's an important duty it's a high
13:03:40 21 judgement activity one that I take very seriously
13:03:43 22 and aside from just that business approval
13:03:51 23 authority there's also an element of teaching and
13:03:55 24 training and coaching others on the team about how
13:04:00 25 we look at these transactions how we think about

13:04:03 1 them and what we base our decisions on so they can
13:04:07 2 better prepare and anticipate and apply their own
13:04:10 3 judgement through the process.

13:04:10 4 BY MR. LITTLE:

13:04:11 5 Q. When you say high judgment what do you
13:04:14 6 mean.

13:04:14 7 A. What I mean, is being able to look at the
13:04:22 8 prop is as presented, put the relevant details in
13:04:25 9 making a judgement call that says this is the
13:04:29 10 right asset at the right cost or price and the
13:04:34 11 right asset to acquire -- right time if you will,
13:04:38 12 right time to acquire that.

13:04:40 13 Q. You mention the relevant components to a
13:04:42 14 CAR what do you believe are the relevant pieces of
13:04:45 15 information. What do you believe are the relevant
13:04:49 16 pieces of information contained in a CAR for our
13:04:52 17 decision making?

13:04:52 18 MS. PAPEZ: Objection. Form.

13:04:55 19 A. The key elements in our decision making
13:04:58 20 are the characteristics of asset is it fit for

13:05:03 21 purpose. Is it an asset that we can develop that
13:05:06 22 we can manager, maintain over time, is it going to
13:05:10 23 serve us well and our customers well over time so
13:05:13 24 there's characteristics about the asset.
13:05:15 25 Obviously there's a lot of financial data gathered

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13:05:18 1 about the asset including the cost of that asset
13:05:23 2 over time, the net present value, details about
13:05:29 3 how does this cost of the asset compare to other
13:05:32 4 assets that we have acquired and more generally to
13:05:35 5 help us determine is this the right price to pay
13:05:39 6 and are we getting good value for this asset and
13:05:43 7 then there are kind of a third set of things more
13:05:50 8 around what are the terms, conditions, maybe the
13:05:54 9 legal parameters, suffer from the cost and
13:05:59 10 physical attributes but what is the deal truck
13:06:03 11 structure, what are the commercial terms around
13:06:05 12 the acquisition and then probably the fourth
13:06:07 13 bucket would be if we were to acquire this asset
13:06:11 14 how does it solve for our demand forecast over
13:06:16 15 time in other words, are we getting the right
13:06:19 16 quantity at the right time in order to meet our

13:06:21 17 customer demand.

13:06:22 18 Q. Let me ask for a few of those to clarity

13:06:25 19 them for folks when you say the right price to

13:06:28 20 pay, is there a financial component to CARs?

13:06:28 21 MS. PAPEZ: Objection. Form.

13:06:35 22 A. Yes, there is's a fair amount of financial

13:06:38 23 data gathered.

13:06:39 24 Q.

13:06:40 25 BY DEFENSE COUNSEL:

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13:06:40 1 Q. Who is responsible for financial data

13:06:43 2 gathering in the CAR process?

13:06:44 3 A. The financial data around the given refer

13:06:51 4 to answer to interrogatory asset whether its

13:06:53 5 build-to-suit or real estate or both. The

13:06:55 6 financial data around that asset is gathered by

13:06:57 7 the real estate or colo transaction manager and

13:07:02 8 assembled into the CAR templates.

13:07:05 9 Q. What is the finance teams role this

13:07:07 10 analyzing those numbers?

13:07:08 11 A. Really two responsibilities there one to

13:07:12 12 review that information in detail, and compare and
13:07:17 13 contrast the -- that specific transaction with
13:07:22 14 other transactions and look for things that are
13:07:24 15 out of ordinary or unusual, or perhaps outside of
13:07:30 16 a reasonable benchmark. The -- or comparable
13:07:35 17 transaction. That's kind of the first duty of a
13:07:39 18 finance partner. A second duty of a finance
13:07:42 19 partner is really to make sure that given those
13:07:47 20 financials associated with the asset how does this
13:07:51 21 fit or compare to our budgets and plans. Is it
13:07:54 22 within plan or within budget or and will it make
13:08:00 23 the cost of our region go up or down overall
13:08:03 24 relative for a P N L so they're looking at taking
13:08:07 25 that asset and looking at the bigger picture

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13:08:10 1 around how that asset fits into our budget plan
13:08:13 2 and P N L.
13:08:14 3 Q. Does Amazon have a particular name it uses
13:08:17 4 for its budgets or acronym?
13:08:17 5 MS. PAPEZ: Objection. Form.
13:08:22 6 A. We -- our budges result from a process we
13:08:27 7 call operating plan to two or O P plan 2.

13:08:31 8 Q. Is there something called operational plan
13:08:34 9 one?

13:08:34 10 A. Yes, operational plan one presighs
13:08:36 11 operational plan 2.

13:08:38 12 Q. So O P 1 is and O P 2 are parts of your
13:08:42 13 budget planning process?

13:08:44 14 A. O P 2 is really the budgeting process its
13:08:47 15 where are budgets are set and plans are set and
13:08:50 16 commissioning are made. O P 1 is kind of a you
13:08:53 17 can imagine that as a bunch of inputs to that
13:08:56 18 financial planning process about what are business
13:08:59 19 projects and investments are going to be more
13:09:01 20 broadly that turn into financial budgets an plans.

13:09:05 21 Q. So it's the finance team's
13:09:07 22 responsibilities to see if any particular project
13:09:09 23 is aligned with the numbers and projections in O P
13:09:14 24 2?

13:09:16 25 MS. PAPEZ: Objection. Form.

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13:09:20 1 A. Yes finance is the person or team that's
13:09:22 2 going to verify what we had plan and are paying

13:09:25 3 for what we had planned ain't it fits within our
13:09:28 4 budget.

13:09:28 5 BY MR. LITTLE:

13:09:30 6 Q. And the analysis that you described that
13:09:31 7 finance did to compare this deal with past deals
13:09:34 8 that Amazon may have undertaken it does that
13:09:36 9 inspectly at the real estate team does it not?

13:09:38 10 MS. PAPEZ: Objection. Form.

13:09:39 11 A. No. I don't think they do that
13:09:44 12 independently. They do it together because the
13:09:46 13 finance team will look at some of the numbers
13:09:48 14 presented, confirm they make sure they understand
13:09:51 15 the numbers are accurate and they understand them
13:09:53 16 the way they are presented and then they I'll lack
13:09:55 17 at those comparisons an present them back to the
13:09:58 18 real estate team and say do we have this right
13:10:00 19 this the way we should look at it.

13:10:00 20 BY MR. LITTLE:

13:10:04 21 Q. But when they're looking at comparisons
13:10:06 22 financial team is selecting prior Amazon deems to
13:10:08 23 compare it to that selection is done initially at
13:10:11 24 least by the finance team isn't that right?

13:10:11 25 MS. PAPEZ: Objection. Form.

13:10:16 1 A. Not the way I have seen it work. No.

13:10:18 2 It's generally the finance team verifying or

13:10:21 3 asking the real estate transaction manager what

13:10:25 4 deals are the right comparables to compare.

13:10:25 5 BY MR. LITTLE:

13:10:29 6 Q. Is that are those selections given

13:10:32 7 scrutiny through out the process?

13:10:32 8 MS. PAPEZ: Objection. Form.

13:10:35 9 A. Some of those details yes, will be given

13:10:40 10 scrutiny and may be reviewed in detail by me. For

13:10:44 11 example if there's a difficult comparison to be

13:10:46 12 made or maybe we're in a new local or something

13:10:50 13 like that.

13:10:50 14 Q. Ewe one of things that you talked about

13:10:52 15 you have to consider unique at tributes to any

13:10:56 16 particular deal what are the sort of attributes

13:10:59 17 that might arise in a context of land acquisition

13:11:03 18 for datacenters?

13:11:05 19 A. You could have -- I would have ever asset

13:11:08 20 or property is unique in terms of its size, scope,

13:11:12 21 scaling fit,, etc. What we're looking for are

13:11:16 22 things that we haven't seen or done before so just

13:11:20 23 something that's maybe new and unique to this

13:11:25 24 particular asset or commercial transaction. We're
13:11:28 25 also looking for any unusual cost or extraordinary

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13:11:33 1 cost or cost that in the process we haven't
13:11:37 2 explained clearly what that cost is for and who
13:11:41 3 its going to. Other things we might explain are
13:11:47 4 for example if using this asset is going to
13:11:50 5 require additional work to address some of the
13:11:54 6 physical from the tributes might be it's a land is
13:11:58 7 built the land is on top of a boulder feel and
13:12:01 8 require extra cost an work and site represent to
13:12:04 9 resome boulders or certain composition. So kind
13:12:07 10 of those 3 general flavors.

13:12:10 11 Q. I'm going to show you what's going to be
13:12:14 12 marked as Exhibit 3 in this deposition?

13:12:17 13 (Exhibit 3 was marked.)

13:12:26 14 MR. LITTLE: If you'll take a look I'm
13:12:28 15 going to directing your attention to the e-mail
13:12:29 16 that you sent to a selection of individuals on May
13:12:32 17 25th. Its about a page long. Second page is
13:12:37 18 blank.

13:12:37 19 A. Do you want me to go to page 2.

13:12:39 20 Q. No. Second page is blank so you can take

13:12:42 21 a look and let me know when you completed reading

13:12:44 22 and I'll ask you a few questions about it.

13:13:38 23 A. I read through it fairly quickly and I'm

13:13:42 24 familiar with it.

13:13:43 25 Q. Does this you poor to be an e-mail you

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13:13:45 1 sent to a number of individuals within AWS?

13:13:47 2 A. Yes, that e-mail on May 25 is it from me.

13:13:50 3 Q. The individuals who you address the e-mail

13:13:53 4 to do they have any significance as a group?

13:13:57 5 MS. PAPEZ: Objection. Form doctor?

13:14:05 6 A. Looking at the names on the e-mail I would

13:14:08 7 say I was send egg it to a collection of direct

13:14:10 8 reports and team leaders.

13:14:10 9 BY MR. LITTLE:

13:14:16 10 Q. What is the subject of this e-mail?

13:14:17 11 A. Subject do you want me to read it to you.

13:14:20 12 Q. Not to subject line but generally how

13:14:22 13 would you characterize the subject or topic of

13:14:25 14 this e-mail?

13:14:25 15 MS. PAPEZ: Objection. Form.

13:14:27 16 A. The subject and my intent in this e-mail
13:14:33 17 was meant to be encouragement team is working very
13:14:37 18 hard to provide to do due diligence, provide good
13:14:42 19 detail. They were getting a lot of feedback from
13:14:44 20 me and others and hard questions about why are we
13:14:47 21 sure this is the right thing to do at the right
13:14:50 22 price and the right time and it was intended to be
13:14:53 23 a bit of an encolonement to recognize them for
13:14:57 24 the effort and the great work they were doing.
13:15:00 25 And let me share my prospective on why it's

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13:15:06 1 important and why this work is so value why it
13:15:09 2 matters that they put this all that hard work.
13:15:11 3 Q. So I want to ask about a few specific
13:15:15 4 things I. says here this is sent on the one year
13:15:17 5 anniversary of these CAR reviews does that mean
13:15:20 6 approximately in May of 2017 the CAR process
13:15:25 7 changed?
13:15:28 8 MS. PAPEZ: Objection form, foundation.
13:15:32 9 A. I think it marked a change in maybe the

13:15:35 10 process we were using. I don't remember the
13:15:37 11 specific changes but I believe that's what I was
13:15:40 12 referencing.

13:15:40 13 BY MR. LITTLE:

13:15:41 14 Q. And in that same paragraph there's a
13:15:43 15 statement that says Andy pulled the an don cord
13:15:46 16 that resulted in the over site we have today.
13:15:49 17 Could you explain what that sentence means?

13:15:56 18 MS. PAPEZ: Objection sorry Alex where are
13:15:58 19 you in the document.

13:16:00 20 MR. LITTLE: Same paragraph paragraph 2
13:16:01 21 next to last seventh of paragraph 2.

13:16:04 22 MS. PAPEZ: Thank you.

13:16:06 23 A. I'm sorry.

13:16:06 24 BY MR. LITTLE:

13:16:08 25 Q. The question was Andy pulled the tan don

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13:16:12 1 cord that resulted in the over site we have today.

13:16:14 2 What did you mean by that sentence?

13:16:18 3 A. As I recall about a year prior we had

13:16:27 4 found ourselves in a situation where we had

13:16:30 5 approved a set of CARs ahead of perhaps a head of

13:16:35 6 time we had planned to do it so maybe if the
13:16:38 7 budget was this May maybe we approved some CARs
13:16:42 8 for some amount this February so different than
13:16:44 9 what we had in our planned budget and had
13:16:49 10 basically approved money and committed spend
13:16:51 11 before we needed to. And we reviewed that with
13:17:02 12 Andy and we were running a maid of time on spend
13:17:04 13 relative to demand forecast and revenue and we
13:17:08 14 reviewed that with Andy on a standard financial
13:17:10 15 review and it was called out why are we approving
13:17:14 16 these things so far ahead of schedule.

13:17:16 17 Q. The phrase pulling the an don cord what
13:17:20 18 does that mean?

13:17:21 19 A. Generally an an don cord means stop the
13:17:25 20 process take stock of where you're at what the
13:17:28 21 issues are, correct those things before you
13:17:31 22 restart the process.

13:17:31 23 Q. The next paragraph you said that the CAR
13:17:35 24 reviews are servicing all sorts of missing
13:17:39 25 mechanisms slop and are planning an execution

13:17:42 1 processes that are flown under the radar forever.

13:17:45 2 Do you believe that to be an accurate state?

13:17:45 3 MS. PAPEZ: Objection. Form.

13:17:51 4 A. It's a -- its accurate in the sense that

13:17:55 5 there was a very man wall human based process and

13:17:59 6 with the man wall or human based process there are

13:18:05 7 efficiencies will happen. Misunderstandings occur

13:18:12 8 and over time that very man wall nature no matter

13:18:15 9 how hard and how people are working and trying to

13:18:18 10 assemble complete concise comprehensive

13:18:22 11 transaction data we were finding that sometimes

13:18:25 12 our execution of a process it was very difficult

13:18:31 13 to bridge back to our budgeting and planning

13:18:34 14 process and that's what I was referring to by

13:18:37 15 mechanisms how do you keep execution in line with

13:18:40 16 your plan how do you know you're doing when you

13:18:43 17 said you were going to do when you formed your

13:18:45 18 plan that a what I was referring to.

13:18:48 19 Q. In the last sent you sate consider what we

13:18:51 20 look for in our spend proposals A K A CARs and you

13:18:54 21 list 1, 2, 3, 4, 5, 6, 7, 8, 9, different items.

13:19:03 22 Looking at that list today do you think that's an

13:19:06 23 ago rate list of items that you look for that's

13:19:10 24 relevant in your CAR process?

13:19:10 25 MS. PAPEZ: Objection. Form.

13:19:12 1 A. Those are similar to the buckets I
13:19:15 2 provided those are kind of foundational pieces
13:19:18 3 it's not an exhaustive list but a foundational
13:19:22 4 list.

13:19:22 5 BY MR. LITTLE:

13:19:23 6 Q. What are items that you don't see on there
13:19:25 7 that you think are important to look for in the
13:19:27 8 CAR process?

13:19:36 9 A. One of things we talked about was an asses
13:19:43 10 cost over time relative to comparables or
13:19:45 11 benchmarks. We talked about that. Another one
13:19:49 12 would be costs and effort work that we have to do
13:19:55 13 to mitigate or change a physical at try bought of
13:19:59 14 a given asset. The third one might be an unusual,
13:20:04 15 unique sorts of fees or costs or costs that we
13:20:08 16 don't understand and we continue bottom out.

13:20:10 17 Q. I'm going to turn your attention now to
13:20:13 18 the last paragraph and you state I think it would
13:20:17 19 be hard press today find another company or job
13:20:19 20 where we would spend the kind of money we're
13:20:22 21 spending or decision making on such a large sum is

13:20:26 22 concentrated among such a small group of people
13:20:31 23 in parenthesis us. What did you mean by that?
13:20:33 24 A. What I meant by that is this is a very
13:20:36 25 important due and role that we all play in this

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13:20:39 1 process and the decisions that we make and the
13:20:44 2 data we collect is very very important given the
13:20:48 3 sums of money and we can't yourself expect or
13:20:51 4 assume that it's okay to spend millions of dollars
13:20:56 5 without just filing every darn opinion any.

13:21:01 6 Q. You say the decision making is concentrate
13:21:04 7 aid amongst a small group of people, us. Do you
13:21:07 8 remember that the vims to whom you directed the
13:21:10 9 e-mail and yourself constituted us?

13:21:12 10 MS. PAPEZ: Objection. Form?

13:21:14 11 BY DEFENSE COUNSEL:

13:21:14 12 Q. Who constitutes us in that parenthetical?

13:21:18 13 A. In this particular case it would be
13:21:21 14 certainly the people on the e-mail and others that
13:21:24 15 maybe I didn't include.

13:21:27 16 Q. So you meant by that us to indicate other

13:21:30 17 people who are not listed in the e-mail?

13:21:34 18 MS. PAPEZ: Objection. Form.

13:21:34 19 A. No. It was intended for this group and
13:21:38 20 the people that work for that group to encourage
13:21:41 21 that group. I believe the decision making is
13:21:46 22 limited.

13:21:46 23 BY MR. LITTLE:

13:21:48 24 Q. Those decision-makers are listed as L 8s
13:21:52 25 or above on that e-mail?

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13:21:54 1 MS. PAPEZ: Objection. Form.

13:21:55 2 A. There are some folks in that e-mail that
13:21:57 3 are not L 8sen to distribution list.

13:22:03 4 Q. Who can you identify who is not an L 8 on
13:22:06 5 that list or was not at the time it was sent?

13:22:08 6 A. Arvin, Charles Taylor, Daytono, Francheske
13:22:17 7 and Brent Holly those are the ones I'm reasonably
13:22:22 8 confident were not L 8s.

13:22:25 9 Q. You believe they were low or L 8 or higher
13:22:28 10 than L 8?

13:22:29 11 A. I believe they were L 7 and in Tom cases
13:22:32 12 maybe an L 6 in one case.

13:22:34 13 Q. Did those individuals represent different
13:22:36 14 parts of the prove value process in the CARs?

13:22:36 15 MS. PAPEZ: Objection. Form.

13:22:43 16 A. Those individuals who were not L 8s those
13:22:47 17 individuals were I'm not going to say they were
13:22:50 18 approve veries, they were you can call them
13:22:54 19 project managers, facilitators and coordinators
13:22:57 20 people who collate a lot of this information make
13:23:00 21 sure its complete comprehensive and intelligible
13:23:04 22 and kind of coordinate the review of those CAR
13:23:06 23 document.

13:23:07 24 Q. Does each CAR document list the approve
13:23:10 25 veries who are required for CAR to be approved?

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13:23:10 1 MS. PAPEZ: Objection. Form.

13:23:16 2 A. I believe that detail is -- I don't
13:23:19 3 believe its in the -- actually yes. In the CAR
13:23:22 4 document I remember the names and you can see what
13:23:25 5 the approval chain is. Yes.

13:23:26 6 Q. Give me one moment we're going to look at
13:23:36 7 another document here. I'm going to this is

13:23:38 8 previously been marked as an exhibit K K 04. It

13:23:42 9 should come up on your screen at document 4?

13:23:46 10 A. Okay. Do you see that document.

13:23:51 11 A. Yes, sir.

13:23:52 12 Q. If you take your time to review it if you

13:23:54 13 turn to page 2 line 22 there's a list of names and

13:23:57 14 I wanted to ask you about that briefly.

13:24:00 15 A. I see the list of names.

13:24:01 16 Q. Where it say approvals what do you

13:24:04 17 understand that list of names to represent?

13:24:04 18 MS. PAPEZ: Objection. Form.

13:24:13 19 A. These are the individuals who you would

13:24:16 20 expect to have reviewed and approved this CAR to

13:24:20 21 move forward through an approval process.

13:24:20 22 BY MR. LITTLE:

13:24:24 23 Q. Are you listed there?

13:24:25 24 A. I am.

13:24:25 25 Q. Is that Chris V does that designate you?

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13:24:29 1 A. Yes.

13:24:30 2 Q. Could you run through from left to right

13:24:34 3 who the other individuals are?

13:24:36 4 A. Yes.

13:24:36 5 Q. If you know?

13:24:38 6 A. In the if we're lack at page 2 I do know

13:24:43 7 these individuals. Ernest P Ernest Popescu, Joe M

13:24:50 8 is Joe Minarik. Gretchen is Gretchen Stevenson

13:24:57 9 Liz C, Liz Cottingham, Khozem, Khozem Lockhandwala

13:25:04 10 Louis -- I can't remember Louis's last name.

13:25:06 11 Sorry. Chris Vonderhaar and Peter DeSantis.

13:25:10 12 Q. And very briefly what are the roles of

13:25:12 13 these individuals and the approval process

13:25:15 14 starting with Ernest Popescu?

13:25:15 15 MS. PAPEZ: Objection. Form.

13:25:19 16 A. Ernest Popescu was a real estate

13:25:23 17 transaction manager, Joe Minarik was a real estate

13:25:27 18 level 8 or meter of the real estate team that

13:25:31 19 Ernest was a part of. Gretchen Stevenson was

13:25:35 20 director of infrastructure finance. Liz

13:25:41 21 Cottingham was another finance partner in AWS who

13:25:46 22 worked for Louis P. Khozem at this time I'm not

13:25:56 23 sure the date on this one, I think he was I

13:26:00 24 believe he was probably the finance partner for

13:26:03 25 infrastructure, Gretchen probably worked for the

13:26:07 1 Khozem. I don't know the time of this there was a
13:26:09 2 time when Khozem was in --

13:26:09 3 Q. It does appear to be a date at the bottom
13:26:12 4 there if that's helpful?

13:26:21 5 A. At this time so Khozem would have been Joe
13:26:28 6 Minarik's boss on the business side not finance.

13:26:35 7 I believe Louis was an AWS CFO and me, Khozem
13:26:40 8 worked for the me and I worked for Peter who
13:26:44 9 ran --

13:26:45 10 Q. What was Peter's role at this time?

13:26:47 11 A. Peter at that time ran infrastructure
13:26:52 12 Amazon infrastructure services.

13:26:55 13 MS. PAPEZ: We have been going to about an
13:26:56 14 hour but I would like to walk through sections of
13:26:58 15 this CAR. Looking at this CAR do you recognize
13:27:00 16 this transaction from a year ago or this proposed
13:27:04 17 transaction for SFO 69.

13:27:06 18 A.

13:27:11 19 A. Yes, I remember SFO 69.

13:27:16 20 Q. On the first page there's appears to be a
13:27:21 21 table with a set of two rows an an number of
13:27:24 22 columns. What is the purpose of this table --
13:27:29 23 does the entire document appear to be a CAR

13:27:32 24 document that you have testified about previously?

13:27:34 25 A. I am just going to scan through.

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13:27:37 1 Q. Yes, please.

13:27:51 2 A. Yes this looks like a pretty thorough

13:27:55 3 document for one particular CAR.

13:27:57 4 Q. I think CAR documents are made up of

13:27:59 5 different sections?

13:27:59 6 MS. PAPEZ: Objection. Form.

13:28:06 7 A. Yes page 2 highlights some of those

13:28:08 8 sections.

13:28:08 9 Q. DEFENSE COUNSEL: What is page one called

13:28:11 10 for the car document or what does it denote.

13:28:15 11 MS. PAPEZ: Objection. Form.

13:28:16 12 A. Page one is a table it represents an

13:28:20 13 abstract if you will or a summary of the pertinent

13:28:23 14 information abilities what we plan to acquire,

13:28:26 15 whey we think this is a right thing to acquire at

13:28:29 16 the right time and right cost and an explanation

13:28:32 17 briefly on anything that would make it out of the

13:28:38 18 ordinary.

13:28:44 19 Q. Was this part of CAR document given a name

13:28:47 20 within AWS?

13:28:47 21 MS. PAPEZ: Objection. Form.

13:28:49 22 A. Are you referring to the nonstands piece.

13:28:49 23 BY MR. LITTLE:

13:28:52 24 Q. No this first box here at the top page

13:28:55 25 one section of car given that sort of standard

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13:28:58 1 name at AWS.

13:28:59 2 A. I refer to it CAR summary. I'm not sure

13:29:03 3 if everybody uses that term.

13:29:05 4 Q. So if you use the word CAR summary you're

13:29:08 5 understand that I'm referring to that in the box.

13:29:10 6 The note section of car summary who would have

13:29:13 7 written those notes?

13:29:13 8 MS. PAPEZ: Objection. Form.

13:29:17 9 A. It would have been a combination of the

13:29:22 10 what I will call the owner or the real estate

13:29:27 11 transaction manager for SFO 69 combined with their

13:29:30 12 finance partner with input from I mentioned some

13:29:33 13 of the program managers or project managers that

13:29:36 14 facilitate and colate this stuff between some

13:29:40 15 combination of those 3 people would try to
13:29:42 16 articulate as clearly and concisely as possible
13:29:47 17 the relevant details and why somebody's attention
13:29:51 18 is needed on this.

13:29:51 19 BY MR. LITTLE:

13:29:53 20 Q. On page 2 there appears to be text under a
13:29:57 21 title SFO 69 build-to-suit lease CAR that's 2
13:30:03 22 paragraphs and then a line. What is this part of
13:30:07 23 CAR denote?

13:30:10 24 MS. PAPEZ: Objection. Form.

13:30:10 25 BY MR. LITTLE:

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13:30:11 1 Q. Let me restate that what's the purpose of
13:30:14 2 this part of CAR?

13:30:14 3 MS. PAPEZ: Objection. Form.

13:30:17 4 A. This is in its most brief form a kind of
13:30:20 5 an orientation or summary of what the proposed
13:30:24 6 transaction is.

13:30:26 7 Q. And the little bullets after that does it
13:30:28 8 give specific information about the proposed
13:30:32 9 transaction?

13:30:33 10 A. Yes.

13:30:34 11 Q. We've already talked about approvals so

13:30:37 12 I'm going to move down to line 25 the demand

13:30:40 13 statement of project drivers what is that?

13:30:40 14 MS. PAPEZ: Objection. Form.

13:30:47 15 A. This is -- this gets back to what is the

13:30:50 16 demand forecast say about customer demand in this

13:30:54 17 region over time. What is our current supply

13:30:58 18 projection and then what would our projection be

13:31:00 19 or should be if we acquire this asset so you can

13:31:04 20 see to what degree does its solve for that demand.

13:31:04 21 BY MR. LITTLE:

13:31:11 22 Q. Same thing with line 38 the annual lease

13:31:13 23 rate what's the purpose of that section?

13:31:13 24 MS. PAPEZ: Objection. Form.

13:31:20 25 A. For this -- let me take a minute to read

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13:31:23 1 it real quick. . In this particular case it's a

13:31:40 2 build-to-suit lease it's a commercial structure

13:31:43 3 for the CAR that. Paragraph on annual lease rate

13:31:45 4 is basically taking the unit cost or norm lized

13:31:55 5 cost of this particular transaction an compares it

13:31:58 6 to other transactions in the region to help us
13:32:00 7 gauge whether we're paying more or less than what
13:32:05 8 we'd expect to pay.

13:32:05 9 BY MR. LITTLE:

13:32:07 10 Q. What team within the CAR process would
13:32:09 11 have provided that information?

13:32:09 12 MS. PAPEZ: Objection. Form.

13:32:15 13 A. Most of the data would have for this
13:32:18 14 transaction would come from the real estate
13:32:23 15 transaction manager the data from the previous
13:32:24 16 leases would have come from the real estate
13:32:26 17 transaction managers and the assembly of that data
13:32:29 18 and the comparison would be as I mentioned I think
13:32:33 19 earlier would be a joint review between the real
13:32:37 20 estate transaction manager and their finance
13:32:38 21 partner to make sure they agree they have
13:32:41 22 correctly represented the lease rates and they
13:32:43 23 have selected the appropriate properties for
13:32:45 24 comparison.

13:32:45 25 BY MR. LITTLE:

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13:32:46 1 Q. Can you turn to the next page there's only

13:32:49 2 two lines there but I'll ask about those?

13:32:51 3 A. Yes.

13:32:51 4 Q. What is a rent determinant?

13:32:54 5 A. Honestly I still don't have a good
13:32:59 6 understanding of what a rent determinant is.

13:33:02 7 Q. Have you ever heard of term yield?

13:33:03 8 A. I have heard of term yield yes.

13:33:06 9 Q. What do do you understand yield to mean?

13:33:09 10 A. I'm not going to be able to give you a gad
13:33:11 11 definition of yield.

13:33:13 12 Q. I do want to know what your definition or
13:33:16 13 understanding is what a your understanding of the
13:33:19 14 term yield in the context of build-to-suit
13:33:22 15 transactions?

13:33:22 16 A. I don't feel comfortable sharing I really
13:33:25 17 don't know I have seen yield comparison but I
13:33:29 18 can't tell you how they're determined or
13:33:30 19 calculated.

13:33:32 20 Q. What is a yield comparison mean to you?

13:33:36 21 A. Similar to the previous paragraph we
13:33:39 22 reviewed we would compare yield on one transaction
13:33:42 23 versus the yield on another and again to beige
13:33:44 24 what's different or same how different or what you
13:33:48 25 know are these.

13:33:49 1 Q. Are higher yielded or lower yield better
13:33:52 2 from Amazon from a financial prospective?

13:33:52 3 MS. PAPEZ: Objection. Form.

13:33:57 4 A. I don't know. I really don't know because
13:34:01 5 I don't engage that that level of evaluation on
13:34:04 6 those yields. I take the transaction managers.

13:34:04 7 BY MR. LITTLE:

13:34:10 8 Q. What do you understand an annual escalator
13:34:13 9 to be?

13:34:15 10 A. At a very high level my understanding is
13:34:18 11 what we can expect the cost -- our costs to change
13:34:22 12 over time. How it might change or could change or
13:34:25 13 is allowed to change over time.

13:34:27 14 Q. Is there any time you have had an
13:34:30 15 understanding of what rent determinant means or
13:34:33 16 yield?

13:34:33 17 MS. PAPEZ: Objection. Form.

13:34:36 18 A. There have been -- yes, there have been
13:34:39 19 times when myself Khozem others have poked on rent
13:34:45 20 determinants largely that was a discussion between
13:34:52 21 say our finance partner and real estate

13:34:54 22 transaction I didn't have a lot to add to those

13:34:56 23 conversations.

13:34:56 24 BY MR. LITTLE:

13:34:57 25 Q. When you are consider ago CAR that

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13:34:58 1 include as line that discussions the yield, what

13:35:03 2 do you do with that information in making your

13:35:05 3 decision in whether or not to athe CAR?

13:35:08 4 MS. PAPEZ: Objection. Form.

13:35:16 5 A. As the business approver I'm doing one

13:35:18 6 thing an making sure its accounted for that its

13:35:20 7 explained and that we can stand by and say this is

13:35:26 8 an appropriate yield based on our knowledge in the

13:35:29 9 marketplace and previous transactions.

13:35:32 10 Q. Who would be the one to know where

13:35:34 11 something is an appropriate yield within a AWS CAR

13:35:39 12 process?

13:35:39 13 MS. PAPEZ: Objection. Form.

13:35:40 14 A. The real estate transaction and other

13:35:45 15 people in our -- some of our legal.

13:35:45 16 BY MR. LITTLE:

13:35:49 17 Q. Who do you rely upon when it comes to

13:35:52 18 yield determinants as to whether they were

13:35:55 19 favorable or not favorable to Amazon?

13:35:55 20 MS. PAPEZ: Objection. Form.

13:35:59 21 A. I rely on the real estate transaction

13:36:02 22 manager and their managers that do report to me

13:36:05 23 along with our finance partners and if I see the

13:36:07 24 two of them agree in applying their judgment to

13:36:14 25 say this is a good or reasonable yield then I

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13:36:16 1 approve it.

13:36:16 2 BY MR. LITTLE:

13:36:18 3 Q. Keith Klein testified yesterday that he

13:36:21 4 determined that some of yields in the star leases

13:36:24 5 were somehow above market rate are you aware that

13:36:27 6 he has come to that conclusion?

13:36:32 7 MS. PAPEZ: Objection. Form foundation?

13:36:35 8 A. I was not aware that Keith had come to

13:36:37 9 that conclusion until just now.

13:36:37 10 BY MR. LITTLE:

13:36:40 11 Q. Are you aware that anyone had come to that

13:36:41 12 conclusion?

13:36:42 13 A. In some of the documentation that I have
13:36:44 14 been presented with and reviewed and signed along
13:36:46 15 the way, I see references to yield, I don't
13:36:48 16 remember the specifics.

13:36:50 17 Q. You don't know whether -- do you have a
13:36:53 18 present belief or whether or not the Northstar
13:36:55 19 leases that are issued in the present lawsuit had
13:36:58 20 a market rate yields?

13:36:58 21 MS. PAPEZ: Objection. Form.

13:37:07 22 A. I can't comment on market rate yields. I
13:37:11 23 would some of Northstar transaction had a high
13:37:14 24 higher costs or were market rate in terms of total
13:37:19 25 net cost.

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13:37:19 1 BY MR. LITTLE:

13:37:20 2 Q. How is your total net cost calculated if
13:37:23 3 not associated with a deal?

13:37:25 4 MS. PAPEZ: Objection. Form.

13:37:25 5 A. What I would be looking at would be based
13:37:27 6 on the rates that we are paying relative to market
13:37:30 7 or other transactions.

13:37:30 8 BY MR. LITTLE:

13:37:32 9 Q. What rates are you referring to?

13:37:34 10 A. Rents.

13:37:34 11 Q. Do you understand that there's a
13:37:36 12 relationship between yields and rents?

13:37:39 13 A. I believe.

13:37:42 14 MS. PAPEZ: Objection. Form.

13:37:43 15 A. Yes there's a relationship there.

13:37:43 16 BY MR. LITTLE:

13:37:45 17 Q. If you were told that the yield is a
13:37:47 18 percentage that the developer receives in terms of
13:37:51 19 annual rent based on the total approved budget
13:37:54 20 would that refresh your recollection as to
13:37:55 21 conversations you may have had with others about
13:37:57 22 what yield means?

13:37:59 23 MS. PAPEZ: Objection. Form.

13:38:01 24 A. Tit doesn't refresh any conversations I
13:38:06 25 have had no. The definition is helpful and makes

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13:38:09 1 sense but I don't recall any conversations I have
13:38:11 2 had specifically about yield.

13:38:11 3 BY MR. LITTLE:

13:38:14 4 Q. Do you doubt that that is how yield is
13:38:16 5 used in these transactions?

13:38:16 6 MS. PAPEZ: Objection. Form.

13:38:25 7 A. I don't know.

13:38:25 8 BY MR. LITTLE:

13:38:27 9 Q. I want to drill down and make clear what
13:38:30 10 you understand and doesn't understand do you know
13:38:32 11 whether a higher yield or lower yield is better
13:38:35 12 for Amazon in terms of total cost structure?

13:38:41 13 MS. PAPEZ: Objection. Form.

13:38:42 14 A. Based on the differentings in addition you
13:38:43 15 just described a higher yield would imemploy a
13:38:46 16 higher cost.

13:38:46 17 BY MR. LITTLE:

13:38:48 18 Q. Which would be better for Amazon?

13:38:50 19 MS. PAPEZ: Objection. Form.

13:38:50 20 A. A lower cost in this case probably a lower
13:38:55 21 yield would be better for Amazon.

13:38:55 22 BY MR. LITTLE:

13:38:57 23 Q. And generally whether or not you
13:38:59 24 understand a concept of yield your objective would
13:39:03 25 be to find a lower cost in Amazon in any

13:39:05 1 particular transaction is that fair?

13:39:05 2 MS. PAPEZ: Objection. Form.

13:39:10 3 A. Generally speaking yes lower cost is
13:39:12 4 better on our customers.

13:39:12 5 BY MR. LITTLE:

13:39:15 6 Q. On the current document we're looking at
13:39:17 7 here let's turn to page one again I apologize in
13:39:22 8 the middle of that paragraph there's a reference
13:39:24 9 to a developer's yield of 6.25 percent. I just
13:39:28 10 want to see if you can find that section there?

13:39:30 11 A. I do see it.

13:39:31 12 Q. Is that accurate it say as developers
13:39:36 13 yield is 6. 25 percent is it not?

13:39:39 14 A. Yes, I see that. Yes.

13:39:40 15 Q. And if you'll turn to page 3 I the rent
13:39:52 16 determinant is set at 6.25 percent do you see
13:39:55 17 that?

13:39:55 18 A. Yes, I do.

13:39:56 19 Q. There's average last two build-to-suit
13:40:01 20 projects but 6.3 percent is that what it says
13:40:05 21 there?

13:40:05 22 A. Yes.

13:40:06 23 Q. Were you aware when you reviewed in CAR
13:40:11 24 that the transaction manager who presented it had

13:40:17 25 received requests for proposals or responses with

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13:40:19 1 yields of 6 percent and 5.85 percent?

13:40:19 2 MS. PAPEZ: Objection. Form.

13:40:28 3 A. I don't recall knowing that or reviewing

13:40:30 4 that.

13:40:30 5 BY MR. LITTLE:

13:40:31 6 Q. If yield were to result in a lower net

13:40:34 7 cost to Amazon -- the lower yield were to result

13:40:37 8 in a lower net cost to Amazon is that something

13:40:40 9 you would want to be informed about in the process

13:40:43 10 of making decisions about CARs?

13:40:43 11 MS. PAPEZ: Objection. Form.

13:40:48 12 A. Generally speaking we do want to know what

13:40:51 13 other proposals or terms or yields were considered

13:40:58 14 and review and why our folks real estate

13:41:04 15 transaction manager finance partners believe this

13:41:06 16 is the right.

13:41:06 17 BY MR. LITTLE:

13:41:10 18 Q. I have got a few questions along that line

13:41:13 19 but I think we've been going now for an hour so

13:41:18 20 make a good time for a break I don't know if

13:41:20 21 anybody has other feelings?

13:41:23 22 A. I'm good.

13:41:26 23 MS. PAPEZ: Do you want to do a short

13:41:27 24 break or letting people do some lunch.

13:41:31 25 MR. LITTLE: Its still the morning for

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13:41:33 1 Chris and I'm sort of lunchtime as well if you

13:41:35 2 want to take an hour now I'm fine I would say I'm

13:41:38 3 more than halfway through. So in terms of

13:41:40 4 estimating. I think we have been on the record

13:41:42 5 for about 2:10 I would say we're not going to go

13:41:46 6 post4 or just maybe 4 hours so I'm halfway through

13:41:49 7 or close to halfway through. So lunch is fine

13:41:52 8 with me if that's okay with anybody else I don't

13:41:56 9 know how the rest of the folks feel about it.

13:41:59 10 MS. PAPEZ: Its for you would you like to

13:42:02 11 take a break a short one or eat something.

13:42:05 12 THE WITNESS: I'm good to go. I can keep

13:42:08 13 going to but I'm very happy to let you all grab a

13:42:12 14 bite to eat and it can be a short break whatever

13:42:15 15 you prefer.

13:42:18 16 MR. LITTLE: We'll certainly need to take
13:42:20 17 a break before the end so do you want to say just
13:42:22 18 over half an hour to come back at 2:15 eastern.
13:42:28 19 MS. PAPEZ: There's great I was going to
13:42:29 20 say maybe 30 minutes so we can keep it moving
13:42:33 21 that's great.
13:42:35 22 MR. LITTLE: So it is currently 1:42
13:42:38 23 eastern and we'll come back at 2:15 eastern if
13:42:41 24 that works for everyone.
13:42:43 25 THE WITNESS: Will do.

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13:42:44 1 MR. LITTLE: All right. Thank you.
13:42:46 2 THE VIDEOGRAPHER: Off the record at
13:42:50 3 1:42 p.m.
13:42:50 4 (A break was taken at 1:42 p.m.)
13:42:50 5 (Proceedings resumed at 2:20 p.m.)
14:20:59 6 THE VIDEOGRAPHER: We are back on the
14:21:00 7 record at 2:20.
14:21:02 8 MR. LITTLE: Before we begin, I just want
14:21:03 9 to let my colleague put on the record the
14:21:04 10 understanding that he reached with Ms. Barrett

14:21:06 11 about the need to ask additional questions after
14:21:09 12 this deposition related to some discovery we and
14:21:09 13 not received. Adam, it's all yours.
14:21:09 14 MR. SMART: And I'll let -- Elizabeth
14:21:14 15 obviously we weigh in if I misstate something but
14:21:22 16 we just want make on the record that previously we
14:21:23 17 discussed that there is a CAR document or
14:21:24 18 documents related to amendments to the lease
14:21:30 19 transactions at issue in this case that are
14:21:32 20 currently being reviewed for potential content
14:21:35 21 that are privileged once that review takes place
14:21:38 22 think that be produced but because that review
14:21:40 23 could not occur prior to this deposition and did
14:21:42 24 not occur before the one yesterday that the
14:21:46 25 understanding is that once we do to 30 (B)(6)

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14:21:49 1 deposition if there's still a need to ask question
14:21:51 2 of this witness and the witness yesterday on that
14:21:54 3 dollar topic that we will be allowed to do so and
14:21:57 4 my understanding is we will -- well I don't think
14:22:00 5 it will be an issue today and we will not come
14:22:03 6 near the 7 hours and it will be within that.

14:22:10 7 MS. PAPEZ: I appreciate that. That's my
14:22:12 8 understanding of the conversation this morning so
14:22:13 9 we're happy to have that on record and I expect
14:22:16 10 also that for purposes of today because full
14:22:21 11 candor I don't know exactly the scope of the
14:22:23 12 ongoing privilege review we're not looking to
14:22:25 13 instruct the witness not to answer questions today
14:22:27 14 and we're assuming that there won't be questions
14:22:31 15 that won't implicate that and if there is we
14:22:32 16 reserve the right to raise a privilege objection
14:22:35 17 and proceed from here.

14:22:39 18 MR. SMART: That makes sense to me and it
14:22:41 19 could be you that raised them because we're
14:22:43 20 uncertain about something and the question that
14:22:44 21 may not be but that makes sense and we understand
14:22:48 22 the need for you to preserve.

14:22:52 23 MS. PAPEZ: Exactly thanks so much.

14:22:52 24 BY MR. LITTLE:

14:22:54 25 Q. Mr. Vonderhaar are you ready to begin?

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14:22:57 1 A. Yes, sir.

14:22:57 2 Q. And you understand that you're still under
14:22:59 3 oath?

14:22:59 4 A. I do.

14:23:00 5 Q. I want to turn back again to the document
14:23:02 6 that we were looking at before, document 4 on your
14:23:08 7 screen I'm asking you a few more questions this is
14:23:10 8 the CAR document for SFO 69 we were looking at
14:23:13 9 previously. Can you turn to page 6 please?

14:23:23 10 A. I'll there.

14:23:23 11 Q. Do you see section 5 titled how does this
14:23:26 12 deal compare to previous AWS transactions?

14:23:29 13 A. Yes, I do. I'm going to enlarge it a
14:23:32 14 little bit.

14:23:41 15 Q. Who runs these analysis?

14:23:44 16 MS. PAPEZ: Objection. Form.

14:23:47 17 BY MR. LITTLE:

14:23:48 18 Q. On page 6 that we're looking at here?

14:23:51 19 A. That table and let me look at the contents
14:23:55 20 real quick. So that table would be assembled
14:24:04 21 primarily by the lease transaction manager that
14:24:07 22 the date that the lease transaction manager would
14:24:12 23 gather and they would asimilable most of this
14:24:15 24 data and they would work with their finance
14:24:16 25 partners to build this schedule. Again joint

14:24:21 1 reviewed to make sure everything is accounted for
14:24:25 2 and make sure we're comparing the right
14:24:33 3 properties.

14:24:33 4 BY MR. LITTLE:

14:24:33 5 Q. Do you see there it has different cost
14:24:35 6 percentages, land cost per usable acre, land cost
14:24:38 7 per acre, those sorts of calculation there is as
14:24:41 8 well?

14:24:41 9 MS. PAPEZ: Objection. Form.

14:24:43 10 BY DEFENSE COUNSEL:

14:24:44 11 Q. Do you see those forms?

14:24:45 12 A. Yes, the highlighted like rows 11, 12, 13
14:24:49 13 yes.

14:24:50 14 Q. And it billing these presumably based upon
14:24:54 15 the cost paid by Amazon?

14:24:54 16 MS. PAPEZ: Objection. Form.

14:24:58 17 A. These would be costs normalized costs for
14:25:01 18 comparison purposes across the set of properties.

14:25:01 19 BY MR. LITTLE:

14:25:06 20 Q. When you say set of properties you mean
14:25:07 21 properties of Amazons?

14:25:07 22 MS. PAPEZ: Objection. Form.

14:25:13 23 A. Generally yes, however it may be that we
14:25:16 24 were considering one or more properties and maybe
14:25:18 25 we haven't closed they will and we're comparing

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14:25:21 1 them to other things that we're lacking at that we
14:25:24 2 don't actually own or have.

14:25:24 3 BY MR. LITTLE:

14:25:27 4 Q. I'm going to turn back to page 1 so do you
14:25:35 5 see the column entitled site type?

14:25:39 6 A. Yes.

14:25:44 7 Q. What does it state there?

14:25:46 8 A. B T S.

14:25:47 9 Q. And that refers to?

14:25:49 10 A. Build-to-suit.

14:25:51 11 Q. And so this CAR appears to be relate today
14:25:54 12 a build to suit transaction is it not?

14:25:58 13 A. I believe so. Yes.

14:25:59 14 Q. And the build-to-suit transaction I think
14:26:01 15 you previously testified that you worked with
14:26:05 16 developer. Do you know whether the developer
14:26:07 17 chosen to work with Amazon in the B T S is listed

14:26:10 18 somewhere in the CAR?

14:26:10 19 MS. PAPEZ: Objection. Form.

14:26:14 20 A. I don't know for certain but it usually

14:26:18 21 comes out somewhere either in the discussion or it

14:26:22 22 probably is somewhere in the detail CAR documents.

14:26:25 23 Q.

14:26:26 24 BY DEFENSE COUNSEL:

14:26:27 25 Q. What factors about the developers that you

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14:26:29 1 work with are included in the CAR documents on a

14:26:32 2 regular basis?

14:26:32 3 MS. PAPEZ: Objection. Form.

14:26:34 4 A. Predominantly its more about -- its more

14:26:38 5 about the fees and the structures and the details.

14:26:46 6 Occasionally I can remember asking the developers

14:26:49 7 make that are new that we haven't worked with or

14:26:52 8 certainly if there was something about the

14:26:54 9 developer that was out of the ordinary in terms of

14:27:00 10 either our relationship with them or maybe the

14:27:02 11 relationship of our employees with those

14:27:05 12 developers.

14:27:05 13 BY MR. LITTLE:

14:27:06 14 Q. Can you give me an example of ladder

14:27:08 15 category you just testified about?

14:27:10 16 A. If we were working an a developer and

14:27:13 17 let's say we were working with a developer that

14:27:16 18 had some relationship with Amazon prior to

14:27:20 19 relationship, good or bad or perhaps relationship

14:27:24 20 or prior history with employees who are applying

14:27:30 21 judgements and making decisions about this those

14:27:33 22 are the things that we want to explore and

14:27:37 23 understand.

14:27:37 24 BY MR. LITTLE:

14:27:38 25 Q. Has that ever been I colluded in a CAR

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14:27:41 1 that you can recall?

14:27:41 2 MS. PAPEZ: Objection. Form.

14:27:44 3 A. I don't ever recall in the CARs that I

14:27:48 4 have approved where we've seen any improper

14:27:50 5 relationships called out.

14:27:50 6 BY MR. LITTLE:

14:27:52 7 Q. I'm asking more broadly whether any

14:27:54 8 relationship between an Amazon employee and a

14:27:57 9 developer has ever been discussed in a CAR that

14:27:59 10 you have seen?

14:27:59 11 MS. PAPEZ: Objection. Form.

14:28:04 12 A. No. I mean, I have seen developer names

14:28:08 13 called out and maybe there's something interesting

14:28:10 14 about a developer that we have a discussion about.

14:28:13 15 I don't really recall anything that was

14:28:16 16 significant if you will about this.

14:28:16 17 BY MR. LITTLE:

14:28:19 18 Q. Is there any section of the CAR that's

14:28:24 19 devoted to the discussion that you have just

14:28:26 20 testified about?

14:28:26 21 MS. PAPEZ: Objection. Form.

14:28:27 22 A. In terms of kind of a profile about the

14:28:31 23 developer or information about the developer, I

14:28:35 24 don't recall seeing a dedicated section however

14:28:37 25 these CAR documents its perhaps you have seen this

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14:28:40 1 one and others, we flex and we put the information

14:28:45 2 we need generally in the form of a frequently

14:28:48 3 asked question or FAQ so just because there's not

14:28:55 4 a place holder in the template a profile developer

14:28:58 5 if there was something you need or out of ordinary
14:29:01 6 we would explain it in a paragraph perhaps as an
14:29:03 7 FAQ.

14:29:03 8 BY MR. LITTLE:

14:29:05 9 Q. Can you recall any CAR that include as FAQ
14:29:08 10 about a developers capabilities?

14:29:08 11 MS. PAPEZ: Objection. Form.

14:29:16 12 A. I don't recall a specific CAR but I do
14:29:18 13 recall conversations in the past use the cord
14:29:21 14 capability. We have in some places especially
14:29:28 15 where we're working with the new developer less in
14:29:32 16 the U.S. but places elsewhere we will ask the
14:29:34 17 question why the we think this developer can
14:29:37 18 deliver.

14:29:37 19 BY MR. LITTLE:

14:29:38 20 Q. You mentioned working with new developers
14:29:40 21 a few times. Why do you work with new developers
14:29:44 22 as opposed to only the same developer?

14:29:44 23 MS. PAPEZ: Objection. Form.

14:29:47 24 A. I don't know that I may have used the word
14:29:52 25 new and if I did use the word new I think its more

14:29:55 1 generally do we -- how much information do we
14:29:57 2 explore or require about a developer whether we've
14:30:02 3 worked for them in the past whether they're new.
14:30:04 4 I really wasn't intentionally zoning in on new.
14:30:04 5 BY MR. LITTLE:

14:30:09 6 Q. For the purpose of these questions when I
14:30:10 7 say a new developer it's a developer new to
14:30:13 8 working with Amazon on a datacenter construction
14:30:17 9 project we can agree on that definition for these
14:30:25 10 series of questions right now?

14:30:25 11 MS. PAPEZ: Objection. Form.

14:30:27 12 A. We can use that definition.

14:30:27 13 BY MR. LITTLE:

14:30:33 14 Q. What are some of develop everys that you
14:30:34 15 recall Amazon working with to increase capacity in
14:30:38 16 the Americas?

14:30:44 17 A. Other than some of developer names that
14:30:48 18 are in this case that I'm familiar with -- other
14:30:50 19 developer names it's not something that we spend a
14:30:53 20 lot of time on.

14:30:53 21 BY MR. LITTLE:

14:30:59 22 Q. Would it be considered prudent to use a
14:31:01 23 variety of developers for competitive reasons?

14:31:01 24 MS. PAPEZ: Objection. Form.

14:31:07 25 A. In some cases yes, its good, not -- it is

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14:31:10 1 good to have more than one developer or several

14:31:14 2 developers at a that we can access and work with.

14:31:20 3 Yes that's a good thing.

14:31:21 4 Q. Is it your understanding that your lease

14:31:25 5 agreement and agreements relate today B T S -- sit

14:31:28 6 your understanding that when you make an agreement

14:31:29 7 with a developer to build a datacenter those

14:31:32 8 agreements include completion guarantees?

14:31:32 9 MS. PAPEZ: Objection. Form.

14:31:39 10 A. I'm not familiar with the completion

14:31:41 11 guarantee term.

14:31:41 12 BY MR. LITTLE:

14:31:43 13 Q. Do you believe that Amazon would be

14:31:44 14 obligate today pay anything if a developer failed

14:31:46 15 to perform its obligation to build a datacenter?

14:31:46 16 MS. PAPEZ: Objection. Form.

14:31:55 17 A. If the developer failed to perform and

14:31:56 18 failed to deliver as per the terms of the contract

14:32:00 19 and agreement, I am sure that we would pursue that

14:32:05 20 and seek the appropriate remedies reliabilities.

14:32:05 21 BY MR. LITTLE:

14:32:10 22 Q. Amazon would have some protections when it

14:32:12 23 works with new developers would it not?

14:32:12 24 MS. PAPEZ: Objection. Form.

14:32:17 25 A. Yes, I believe we include protections when

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14:32:19 1 we're working with new and or new developers.

14:32:19 2 BY MR. LITTLE:

14:32:24 3 Q. Are you aware that individual transaction

14:32:27 4 managers in real estate were encouraged to seek

14:32:31 5 out additional developers in an effort to drive

14:32:34 6 down costs?

14:32:34 7 MS. PAPEZ: Objection. Form.

14:32:39 8 A. I'm not aware of that specific directive

14:32:42 9 no.

14:32:42 10 BY MR. LITTLE:

14:32:43 11 Q. Would you have any reason to doubt that

14:32:45 12 was a directive given to real estate transaction

14:32:48 13 manager in 2018?

14:32:48 14 MS. PAPEZ: Objection. Form.

14:32:50 15 A. I don't have any reason to doubt that we

14:32:52 16 would seek to broaden our portfolio of partners to
14:32:56 17 work with.

14:32:56 18 BY MR. LITTLE:

14:33:01 19 Q. In the document that we have been looking
14:33:02 20 at here still exhibit K K O 4 we talked about the
14:33:06 21 break before it had to include a yield of 6.25
14:33:10 22 percent if there was a -- well I guess before we
14:33:15 23 get there. Do you understand what a request for
14:33:17 24 proposal is also known as and RFP?

14:33:21 25 A. Yes, generally I'm familiar with an RFP.

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14:33:28 1 Q. What is a RFP?

14:33:32 2 A. At the high level it's a documented set of
14:33:36 3 an ask -- of a group whether it be real estate or
14:33:40 4 somebody else so that we have this problem or this
14:33:43 5 opportunity or this goal here's the nature of this
14:33:46 6 we would -- we invite you as a vendor or partner
14:33:49 7 to reply to this RFP and respond with your
14:34:00 8 qualifications and proposals on how to meet our
14:34:01 9 business needs reflected in our

14:34:02 10 BY MR. LITTLE:

14:34:03 11 Q. Who generally in the real estate side

14:34:05 12 would send RFPs to developers?

14:34:12 13 A. I believe it would be predominantly

14:34:17 14 constructed by the real estate transaction

14:34:20 15 managers in concert with our legal partner as

14:34:22 16 perhaps other people in the business to make sure

14:34:24 17 they were complete, accurate, etc.

14:34:32 18 Q. Are you aware whether Amazon has a policy

14:34:34 19 related to the RFP process?

14:34:38 20 MS. PAPEZ: Objection. Form.

14:34:40 21 A. I'm not aware of particular policies of

14:34:43 22 the RFP process.

14:34:43 23 BY MR. LITTLE:

14:34:44 24 Q. Many f you're not aware of them who do you

14:34:47 25 think would be?

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14:34:48 1 A. Most definitely our in house legal counsel

14:34:50 2 an partners and I would expect that certainly the

14:34:53 3 business owners engaging in an RFP process to

14:34:56 4 understand structure of rule policies, etc.

14:35:01 5 Q.

14:35:09 6 Q. Was there a time when development of

14:35:11 7 datacenter was a single source to a single

14:35:14 8 developer?

14:35:14 9 MS. PAPEZ: Objection. Form.

14:35:16 10 A. I don't recall.

14:35:16 11 BY MR. LITTLE:

14:35:18 12 Q. Have you ever heard of developer COPT?

14:35:21 13 A. Not by that acronym.

14:35:29 14 Q. Or COPT?

14:35:31 15 A. No.

14:35:32 16 Q. Are you aware in the course of site

14:35:41 17 selection, site transaction managers and others

14:35:43 18 individual in the real estate department at Amazon

14:35:43 19 used brokers who were outside agents of Amazon?

14:35:43 20 MS. PAPEZ: Objection. Form.

14:35:48 21 A. I'll aware that from time to time brokers

14:35:52 22 have perhaps identified or brought that we would

14:35:59 23 look at.

14:35:59 24 BY MR. LITTLE:

14:36:00 25 Q. Are you aware that brokers would help

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14:36:03 1 assist in the RFP process?

14:36:03 2 MS. PAPEZ: Objection. Form.

14:36:07 3 A. I don't know specifically. They may. I
14:36:10 4 can see why they might.

14:36:10 5 BY MR. LITTLE:

14:36:14 6 Q. Are you aware that Amazon and AWS uses a
14:36:18 7 few particular brokers?

14:36:18 8 MS. PAPEZ: Objection. Form.

14:36:23 9 A. Yes, I'm aware that from time to time we
14:36:25 10 have engaged commercial real estate brokers to
14:36:30 11 assist us this finding.

14:36:30 12 BY MR. LITTLE:

14:36:32 13 Q. Have you heard of K B C advisors?

14:36:35 14 A. I haven't heard of that one.

14:36:37 15 Q. You have not heard of K B C?

14:36:40 16 A. No.

14:36:40 17 Q. Would it surprise you that there are K B C
14:36:46 18 brokers who are provided with Amazon badges access
14:36:50 19 to the building?

14:36:50 20 MS. PAPEZ: Objection. Form.

14:36:56 21 A. No. It wouldn't surprise me that a broker
14:36:59 22 that our team was working with what we would call
14:37:03 23 a yellow badge, a vendor. Yellow badges are that
14:37:08 24 we work with over time are given badge access to
14:37:11 25 they can come to our facilities and meet with us.

14:37:15 1 It doesn't surprise me.

14:37:16 2 Q. Are brokers also given Amazon e-mail
14:37:19 3 accounts?

14:37:19 4 MS. PAPEZ: Objection. Form.

14:37:24 5 A. If they are a yellow badge vendor, then
14:37:27 6 yeah they get a badge and e-mail account because
14:37:30 7 they're doing transactions or business with us.

14:37:30 8 BY MR. LITTLE:

14:37:33 9 Q. And to be clear they would mean they have
14:37:34 10 an e-mail account that would look similar to an
14:37:37 11 external party as if it were an Amazon employee?

14:37:37 12 MS. PAPEZ: Objection. Form.

14:37:42 13 A. I believe that's true. Yes.

14:37:42 14 BY MR. LITTLE:

14:37:48 15 Q. The term I used COPT stands for Corporate
14:37:52 16 Office Properties Trust does that ring any bells
14:37:55 17 as the developer you have worked with?

14:37:57 18 A. No.

14:37:57 19 Q. I'm going to show you what's marked here
14:38:04 20 as Exhibit 4. I'm going to show up as document 5?

14:38:09 21 (Exhibit 4 was marked.)

14:38:13 22 A. I have it up on my screen.

14:38:16 23 Q. In the top it appears ton an e-mail from
14:38:20 24 Jason /KWEUPB tell to Todd Meldahl. Do you know
14:38:22 25 who Todd Meldahl is?

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14:38:24 1 A. I do not.

14:38:26 2 Q. Okay. The individual in the C C are John
14:38:30 3 Parsons, Keith Klein, Robert get /RER /RA and Rob
14:38:35 4 Rakusin, R-A-K-U-S-I-N. Do you know who any of
14:38:39 5 those individuals are?

14:38:40 6 A. I know John and Keith.

14:38:42 7 Q. Who are they?

14:38:45 8 A. John and Keith are currently members of
14:38:49 9 our real estate team.

14:38:50 10 Q. And the first sentence reads the first
14:38:52 11 e-mail begins reads Todd think again for the
14:38:56 12 opportunity to respond to an RFP for A P S data
14:39:00 13 center in Gilroy, California. Based on that is it
14:39:04 14 reasonable to believe that this is response to an
14:39:07 15 RFP submitted by Amazon?

14:39:11 16 MS. PAPEZ: Objection form foundation.

14:39:13 17 A. Based on what I'm reading yes.

14:39:13 18 BY MR. LITTLE:

14:39:17 19 Q. And ask you to turn to page 2?
14:39:24 20 A. Okay.
14:39:24 21 Q. Do you see the first paragraph there?
14:39:26 22 A. Yes, sir.
14:39:27 23 Q. And you so it sees reads request for
14:39:29 24 proposal for tenants lease of premises any
14:39:33 25 information given to you in connection with RFP

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14:39:35 1 and all responses and your responses are all
14:39:38 2 confidential information under the nondisclose
14:39:41 3 your agreement this provided with that RFP based
14:39:45 4 on reading that would you believe this to be an
14:39:48 5 RFP form that's been provided at some point?

14:39:52 6 MS. PAPEZ: Objection. Form.

14:39:52 7 A. Yes, based on what I'm reading. Yes.

14:39:52 8 BY MR. LITTLE:

14:39:56 9 Q. And on the first page there's a reference
14:39:58 10 to gill Roy -- subject AWS gill row RFP; is that
14:40:04 11 right?

14:40:04 12 A. Yes.

14:40:06 13 Q. I want to turn your attention to page 3

14:40:09 14 the first row where it says base rent?

14:40:16 15 A. Okay.

14:40:17 16 Q. Do you see a reference in the right hand

14:40:19 17 column to a development yield?

14:40:25 18 A. Yes, I do.

14:40:26 19 Q. What is that development yield?

14:40:31 20 A. It says the -- I see it as a 204,750

14:40:39 21 dollars per month.

14:40:40 22 Q. What is the percentage calculation of that

14:40:44 23 expressed as a percentage?

14:40:46 24 A. I see 5.85 percent.

14:40:51 25 Q. Do you recall the RFP that went up for SFO

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14:40:58 1 69 the gill Roy site had a developer yield of 6.25

14:41:02 2 percent. 5.85 is 40 basis points below 6.25

14:41:08 3 percent is it not?

14:41:08 4 MS. PAPEZ: Objection. Form.

14:41:12 5 A. Yes.

14:41:12 6 BY MR. LITTLE:

14:41:12 7 Q. You can look at the last document if you

14:41:14 8 wish but is there any reference in the last

14:41:16 9 document to -- actually tile direct you to a

14:41:19 10 specific provision. Hold on. We're going to back

14:41:23 11 now to document 4.

14:41:27 12 Are there generally in CARs a section that

14:41:30 13 talks about alternatives to the proposal in a CAR

14:41:30 14 MS. PAPEZ: Objection. Form.

14:41:41 15 A. We would ask our real estate transaction

14:41:44 16 managers if they were more than one property

14:41:46 17 considered how did they arrive at their

14:41:48 18 recommendation for a particular property and what

14:41:51 19 comparisons did they use, what judgment did they

14:41:54 20 apply in selecting a property.

14:41:54 21 BY MR. LITTLE:

14:42:01 22 Q. Is that the section in the information

14:42:02 23 provided on page 7 Section 8 of this CAR at

14:42:07 24 exhibit K K 04?

14:42:09 25 A. Can I take a quick peek at that one.

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14:42:13 1 Q. Page 7 is line 9 through 19?

14:42:28 2 A. Yes I think that highlights or summarizes

14:42:31 3 what other all attorney ITs or options are fall

14:42:34 4 back plan.

14:42:35 5 Q. Is there any reference in that section to
14:42:38 6 the potential of getting a ideal that was 40
14:42:42 7 percent lower?

14:42:42 8 MS. PAPEZ: Objection. Form.

14:42:45 9 A. I don't see any references in Section 8 to
14:42:48 10 yield.

14:42:48 11 BY MR. LITTLE:

14:42:49 12 Q. Can you think of any reason why a
14:42:51 13 transaction manager would not put a substantially
14:42:55 14 lower yield proposal into a CAR like this?

14:43:00 15 MS. PAPEZ: Objection form foundation.

14:43:01 16 A. Actually yeah, yield is only one piece of
14:43:08 17 information that we use to make decisions about
14:43:11 18 properties. Lots of other things are -- I
14:43:15 19 shouldn't say lots. Other factors need to be
14:43:19 20 considered including fit of the property,
14:43:22 21 availability of the property, perhaps attributes
14:43:24 22 of property. So yield is important but it's not
14:43:27 23 the only decision criteria.

14:43:27 24 BY MR. LITTLE:

14:43:31 25 Q. Thank you. Give me one moment just

14:43:46 1 jumping sections here.

14:43:48 2 So are you familiar with the lease

14:43:52 3 transactions and purchase transactions that are

14:43:54 4 the subject of the lawsuit in which you're

14:43:56 5 presently being deposed in

14:43:59 6 A. I am reasonably familiar with the

14:44:01 7 transactions. Yes.

14:44:03 8 Q. I'm going to talk about two in particular.

14:44:09 9 IAD 170 and IAD 156 when I say those two terms do

14:44:15 10 you know what they mean?

14:44:16 11 A. They would be reference to our building

14:44:19 12 codes.

14:44:19 13 Q. Are the bidding codes that are related to

14:44:21 14 this lawsuit?

14:44:21 15 MS. PAPEZ: Objection. Form.

14:44:27 16 A. I'm not entirely sure about the specific

14:44:30 17 numbers. I don't have all the numbers memorized

14:44:37 18 that are in the lawsuit.

14:44:37 19 BY MR. LITTLE:

14:44:40 20 Q. I'm going to show you what's going to be

14:44:42 21 marked as document 6 will be marked as Exhibit 5?

14:44:46 22 (Exhibit 5 was marked.)

14:44:48 23 MR. LITTLE: Just take a chance to pull

14:44:49 24 that document up and we can go to start on

14:44:51 25 the first page.

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14:44:52 1 A. I am there.

14:44:53 2 Q. This first page appears to depict a table
14:44:58 3 does it not?

14:44:59 4 A. It does.

14:45:00 5 Q. It titled at that top DCGS and IGE weekly
14:45:05 6 CAR summary. What do those acronyms mean that
14:45:08 7 that title?

14:45:09 8 A. DCGS Datacenter Global Services and IGE is
14:45:20 9 Infrastructure Global Expansion.

14:45:24 10 Q. Is to when you mentioned in prior
14:45:26 11 testimony that you would have these CARs come
14:45:28 12 together as a group is this what you mean there's
14:45:32 13 group of them presented in this fashion?

14:45:32 14 MS. PAPEZ: Objection. Form.

14:45:35 15 A. Yes.

14:45:35 16 BY MR. LITTLE:

14:45:37 17 Q. Here, this document appears to include
14:45:41 18 information about 8 different CARs; is that right?

14:45:46 19 A. There's a 9th on the second page but yes.

14:45:49 20 Q. Yes. I apologize 9. Do you see the right

14:45:52 21 hand column what appear to be a number of
14:45:54 22 comments?
14:45:56 23 A. Yes.
14:45:56 24 Q. Do those comments doe note different
14:46:01 25 individuals making changes to this document?

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14:46:01 1 MS. PAPEZ: Objection. Form.
14:46:08 2 A. Yes you're talking at the comments in the
14:46:10 3 shaded portion the collars comments.
14:46:10 4 BY MR. LITTLE:
14:46:14 5 Q. That's correct?
14:46:14 6 A. Yes. Those would be reviewers comments on
14:46:18 7 things that needed to be clarified or concluded,
14:46:22 8 added.
14:46:23 9 Q. So for example at the bottom we'll use the
14:46:27 10 last one comment has M M 15414 chan time provided
14:46:33 11 supply brimming for 920 TKE still need demand to
14:46:38 12 supply additional route cause that comment you
14:46:41 13 believe was made by someone involved in the CAR
14:46:44 14 process?
14:46:44 15 MS. PAPEZ: Objection. Form.
14:46:46 16 A. I assume so based on this document and

14:46:50 17 some of the commentary. I don't know M M 15 and

14:46:56 18 doesn't remember.

14:46:56 19 BY MR. LITTLE:

14:46:59 20 Q. Understood I'm using it as an example and

14:47:02 21 there's request there for demand to explain

14:47:04 22 additional route cause correct?

14:47:06 23 A. Yes.

14:47:07 24 Q. To inquiries like that were fairly common

14:47:10 25 as a CAR document was sent up and down the chain

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14:47:13 1 is that fair to say?

14:47:13 2 MS. PAPEZ: Objection. Form.

14:47:16 3 A. Yes. As details were assembled as I went

14:47:22 4 through various reviews people would ask for

14:47:24 5 additional explanation or clarification.

14:47:26 6 Q. So if you'll turn to page 3?

14:47:32 7 A. Okay I'm there.

14:47:33 8 Q. And page 4. Could you tell me generally

14:47:37 9 what page 3 and 4 involve?

14:47:37 10 MS. PAPEZ: Objection. Form.

14:47:50 11 A. Page 3 and 4 provide a summary of a

14:47:54 12 proposed land acquisition in this case IAD 156
14:47:59 13 along with I would call it the standard or
14:48:04 14 requires details project total CARer nest money in
14:48:09 15 O P 2 as well as a set of F A Qs explaining things
14:48:13 16 that are out of ordinary that we want an
14:48:17 17 explanation.

14:48:17 18 BY MR. LITTLE:

14:48:21 19 Q. So one of FAQs is why land acquisition and
14:48:26 20 not build-to-suit. Is that a common FAQ?

14:48:26 21 MS. PAPEZ: Objection. Form.

14:48:34 22 A. At this time -- yeah, we wanted to
14:48:37 23 understand why we decided to go with one deal
14:48:40 24 structure versus another deal structure and
14:48:43 25 understand the economics.

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14:48:43 1 BY MR. LITTLE:

14:48:46 2 Q. The deal structures at the time were they
14:48:48 3 predominantly build to suitors or predominantly
14:48:53 4 land acquisition in 2018?

14:48:53 5 MS. PAPEZ: Objection. Form.

14:48:56 6 A. I don't recall the mix honestly.

14:48:56 7 BY MR. LITTLE:

14:48:59 8 Q. The question seems to suggest that it
14:49:03 9 would generally have been build-to-suit being
14:49:06 10 predominant and asking why that would not be the
14:49:10 11 case in this scenario or is there a different
14:49:12 12 interpretation that you have of that question?

14:49:12 13 MS. PAPEZ: Objection. Form.

14:49:15 14 A. I don't -- I don't read there's a
14:49:19 15 preference or a directive or expectation based on
14:49:23 16 the form of the question I think that's the way
14:49:24 17 the person who filled this in chose to articulate
14:49:27 18 the question.

14:49:27 19 BY MR. LITTLE:

14:49:28 20 Q. Was Amazon agnostic about which method of
14:49:32 21 using acquisition through land acquisition or
14:49:35 22 build-to-suit so long as the decision made was the
14:49:39 23 best financial decision for Amazon?

14:49:39 24 MS. PAPEZ: Objection. Form.

14:49:47 25 A. I would say yes in general. Amazon was

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14:49:52 1 agnostic. We wanted the best assets that suited
14:49:55 2 our business most appropriately with the best

14:50:00 3 financial profile over the long term. We were
14:50:05 4 aware and cognizant of the mix between build to
14:50:10 5 suit and land. There was a kind of an opinion if
14:50:14 6 you will that its good to have a mission of both
14:50:19 7 over the long term there were varying opinions I
14:50:23 8 wasn't conclusive and I'm not going to say -- it
14:50:25 9 certainly was an explicit target or expectation
14:50:29 10 that the company had around the mix.

14:50:29 11 BY MR. LITTLE:

14:50:32 12 Q. Would the reason for the mix to mitigate
14:50:34 13 risk for own ago particular type of asset?

14:50:34 14 MS. PAPEZ: Objection. Form.

14:50:41 15 A. When we considered build-to-suit initially
14:50:44 16 it would be the thought was that having some
14:50:49 17 number of properties and capacity in build-to-suit
14:50:53 18 in your portfolio over the long term was
14:50:56 19 beneficial in the event, the unlikely event that
14:51:01 20 our demand started to taper off and go to the
14:51:05 21 other direction and without knowing what land
14:51:08 22 prices were going to look like that build-to-suit
14:51:11 23 gave us an option with a term where if we wanted
14:51:14 24 to we could chose to exit or renew at different
14:51:17 25 rates so it was that mix was deemed to be kind of

14:51:20 1 or thought to be helpful.

14:51:20 2 BY MR. LITTLE:

14:51:24 3 Q. Are you aware that the descriptions you're
14:51:26 4 providing came from a strategy document that Carl
14:51:30 5 Nelson had provided to global real estate in his
14:51:33 6 early years with the company?

14:51:33 7 MS. PAPEZ: Objection. Form.

14:51:36 8 A. I'm not aware of that exact opinion being
14:51:38 9 a specific document. I am aware that Carl -- that
14:51:44 10 Carl and others advocated for that position and
14:51:49 11 spent time educating myself and others about why
14:51:52 12 that would be beneficial for Amazon.

14:51:52 13 BY MR. LITTLE:

14:51:55 14 Q. On this document we're lacking at here
14:51:56 15 page 3, it lists approvers, correct?

14:51:59 16 A. Yes.

14:52:01 17 Q. Do you know whether those were ultimately
14:52:05 18 the only approvers who were necessary for this
14:52:07 19 deal?

14:52:07 20 MS. PAPEZ: Objection. Form.

14:52:15 21 A. You know I would say it seems a little odd
14:52:19 22 that either myself or depending on the time frame
14:52:22 23 another L 10 is not on that approval chain.

14:52:22 24 BY MR. LITTLE:

14:52:27 25 Q. Is it possible that other approvals were

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14:52:30 1 necessary that aren't reflected there?

14:52:31 2 A. It is possible.

14:52:32 3 Q. I'm going to show you the next exhibit.

14:52:36 4 Its going to be document 7 exhibit CV 6?

14:52:41 5 (Exhibit 6 was marked.)

14:52:43 6 A. Okay I have it up.

14:52:43 7 BY MR. LITTLE:

14:52:45 8 Q. Does this appear to be a printout from

14:52:47 9 your approval tool related to the CAR for IAD 156

14:52:53 10 land acquisition?

14:52:53 11 MS. PAPEZ: Objection. Form.

14:52:56 12 A. Yes that's -- I see that.

14:52:58 13 BY MR. LITTLE:

14:52:58 14 Q. If you turn to page 2 does its list the

14:53:02 15 future approvers?

14:53:04 16 A. Yes, it does.

14:53:05 17 Q. Are you listed as a future approver of I

14:53:14 18 IAD 156 land acquisition?

14:53:16 19 A. Yes, I am.

14:53:17 20 Q. So let's turn back to the other documents.

14:53:19 21 I apologize?

14:53:20 22 A. Document 6 right.

14:53:21 23 Q. Yes. . So if you turn to page 5 there is

14:53:26 24 information about IAD 170 land acquisition

14:53:34 25 correct?

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14:53:34 1 A. Yes.

14:53:34 2 Q. What is page 5 and 6 of this document?

14:53:34 3 MS. PAPEZ: Objection. Form.

14:53:42 4 A. Similar to IAD 156 this is a proposal for

14:53:46 5 another land acquisition inclusive of standard

14:53:53 6 empletized information at the top of page 5

14:53:55 7 followed by F A Qs that discuss any of the unique

14:54:00 8 attributes or discussion points about this

14:54:04 9 particular transaction.

14:54:06 10 Q. Are you listed as one of the approvers of

14:54:08 11 this document IAD 170?

14:54:15 12 A. No I'm not listed on this document.

14:54:16 13 Q. Does that surprise you?

14:54:16 14 MS. PAPEZ: Objection. Form.

14:54:22 15 A. Mildly. What I would point out is that
14:54:24 16 these are water documents typed by human occasion
14:54:29 17 untillly they have typos inclusions exclusions,
14:54:32 18 misspelled words grammatical errors it does not
14:54:36 19 surprise me greatly to see that the word document
14:54:39 20 as we saw in the last one was perhaps out of
14:54:43 21 singing with the approval tool.

14:54:45 22 Q. I'm going to show you the to approval tool
14:54:49 23 for this one as well I will going to be document 8
14:54:51 24 exhibit CV 07?

14:54:53 25 (Exhibit 7 was marked.)

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14:54:54 1 MR. LITTLE: Let me know when that's on
14:54:55 2 your screen

14:54:56 3 A. I have it.

14:54:57 4 Q. Does that appear to be a printout from the
14:54:59 5 approval tool for IAD 170 land acquisition?

14:55:03 6 A. It appears to be.

14:55:12 7 Q. On page 2 are you listed as one of
14:55:15 8 approval?

14:55:17 9 A. Yes.

14:55:18 10 Q. Do you believe you are an approval on both

14:55:22 11 IAD 156 and 170?

14:55:22 12 MS. PAPEZ: Objection. Form.

14:55:26 13 A. Cothink I was an aver on these

14:55:30 14 transactions.

14:55:30 15 BY MR. LITTLE:

14:55:31 16 Q. Okay sitting here today do you have any

14:55:34 17 memory of those processes?

14:55:34 18 MS. PAPEZ: Objection. Form.

14:55:36 19 A. I don't I don't have any recollection

14:55:38 20 about the details of these two particular land

14:55:41 21 acquisitions purchases other than what I just saw

14:55:43 22 and read.

14:55:43 23 BY MR. LITTLE:

14:55:45 24 Q. More generally do you have any particular

14:55:47 25 memories today of the transactions that led to

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14:55:53 1 any -- sorry the CAR processions that led to any

14:55:55 2 of the transactions at issue in the present

14:55:57 3 lawsuit that you're testifying about today?

14:55:57 4 MS. PAPEZ: Objection. Form.

14:56:01 5 A. I'm familiar with based on some of the

14:56:04 6 documents that I reviewed and signed there are
14:56:06 7 set of transactions build-to-suit transactions the
14:56:10 8 number I remember is 9 as well as two and might be
14:56:15 9 these two land properties that were flipped -- I
14:56:20 10 remember reading about that in some of the court
14:56:22 11 documents and so but beyond that I do not
14:56:26 12 recollect that the discussions that occurred back
14:56:31 13 in 2019 about these transactions.

14:56:31 14 BY MR. LITTLE:

14:56:35 15 Q. Okay thank you. Would you have any notes
14:56:37 16 or other information from 2019 that would refresh
14:56:42 17 your recollection about those discussions?

14:56:42 18 MS. PAPEZ: Objection. Form.

14:56:47 19 A. I do not have any notes all I have are
14:56:50 20 these documents.

14:56:50 21 BY MR. LITTLE:

14:57:04 22 Q. Give me one minute I'm pulling up another
14:57:07 23 document when you say there are documents that you
14:57:15 24 have signed relate to these transactions, what
14:57:18 25 documents are you referring to?

14:57:19 1 A. They were leading up to these proceedings
14:57:22 2 they were -- I think there were 2 maybe 3
14:57:28 3 documents that I signed as on on behalf of the
14:57:31 4 company.

14:57:34 5 Q. Were these purchase agreements or some
14:57:36 6 other type of documents?

14:57:44 7 A. They were more around the complaint and
14:57:50 8 the response and the dialogue back and forth
14:57:54 9 specific to the proceedings here in this case.

14:57:57 10 Q. I understand. Deck declarations and
14:58:01 11 things of that sort?

14:58:01 12 MS. PAPEZ: Objection. Form.

14:58:04 13 A. Yes.

14:58:04 14 BY MR. LITTLE:

14:58:05 15 Q. Now I'm going to show you what is
14:58:21 16 marked -- same going to show you what is going to
14:58:24 17 be marked as a next exhibit it will show up
14:58:27 18 Exhibit 9 and its exhibit CV 08?

14:58:31 19 (Exhibit 8 was marked.)

14:58:32 20 Q. Let me know when its on your screen?

14:58:34 21 A. Yes.

14:58:34 22 Q. I'll e-mail screen relate today June 42018
14:58:38 23 CAR meeting follow-up there were e-mail chains
14:58:42 24 both the one I'll going to directing your
14:58:45 25 attention starts on June 6 bottom of page 1 from

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14:58:49 1 Paul bullty ma and Peter DeSantis copying a large
14:58:53 2 number of people that makes a request to Peter
14:59:02 3 DeSantis and a bunch of CARs on page 2 once you
14:59:04 4 review that e-mail let me me when you've complete?

14:59:11 5 A. Okay. I think I'm familiar with what's in
14:59:40 6 here I can refer back to it.

14:59:43 7 Q. I want to make sure you have the full
14:59:45 8 context so further down there are CAR summaries or
14:59:48 9 it says full CARs for both 130 and 131 those are
14:59:52 10 on page 3, 4, 5 and 6. If you want to review
15:00:01 11 those I'll ask you a few questions about them
15:00:06 12 generally?

15:00:06 13 A. Stand by. 130 and 131 right. Am I back
15:00:46 14 everybody froze.

15:00:49 15 MR. LITTLE: We're all here.

15:00:49 16 BY MR. LITTLE:

15:00:50 17 Q. I asked you wanted me to look at 13 and
15:00:54 18 131 right?

15:00:54 19 A. That's correct. Yes.

15:00:56 20 Q. Okay on page 2 of that document there
15:01:05 21 appears to be a list of 13 CARs that were stated

15:01:08 22 they were approved at the June 4, 2018 meeting

15:01:12 23 correct?

15:01:12 24 A. Yes.

15:01:15 25 Q. Further down at that list of 13 there's

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15:01:19 1 paragraph that says after you receive your

15:01:20 2 approval on this e-mail Chris will forward the

15:01:23 3 first two CARS IAD 130 and IAD 131 build-to-suit

15:01:28 4 leases to Andy for further approval as per SNTP

15:01:30 5 guidelines. Do you see that?

15:01:32 6 A. I do.

15:01:33 7 Q. Do you understand in this e-mail that SNTP

15:01:37 8 guidelines refer to the transaction policy that

15:01:40 9 you previously referenced in your testimony?

15:01:42 10 A. Yes.

15:01:43 11 Q. The individual who is listed as Andy there

15:01:47 12 do you believe based on this e-mail that's

15:01:48 13 referring to Andy Jassy?

15:01:51 14 A. I believe that's Andy Jassy.

15:01:54 15 Q. And to be clear the person referred to you

15:01:57 16 Chris Vonderhaar in that e-mail?

15:01:58 17 A. Correct.

15:01:59 18 Q. And based on that e-mail is it reasonable

15:02:01 19 for you to believe that the IAD 130, 131 were

15:02:05 20 approved by yourself, Andy Jassy and Peter

15:02:12 21 DeSantis?

15:02:12 22 MS. PAPEZ: Objection. Form.

15:02:12 23 A. Based on this e-mail it was certainly

15:02:14 24 approved by myself and then Peter. Andy's

15:02:17 25 approval -- that might have been earlier on in

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15:02:21 1 the -- let me go to page one. And I don't see any

15:02:25 2 indication that Andy approved in this e-mail.

15:02:27 3 Q. Understood I guess I'm saying you believe

15:02:30 4 believe from the e-mail that you have would have

15:02:31 5 been required to approve that transaction?

15:02:31 6 MS. PAPEZ: Objection. Form.

15:02:36 7 A. Yes.

15:02:36 8 BY MR. LITTLE:

15:02:37 9 Q. I'll turn your attention first to some

15:02:40 10 portion of the IAD 130 build-to-suit. On page 4

15:02:46 11 there appears to be a section this red I want to

15:02:48 12 draw your attention to that?

15:02:50 13 A. Okay.

15:02:51 14 Q. That section talks about the annual lease

15:02:56 15 rate does it not?

15:02:57 16 A. Yes.

15:02:58 17 Q. And it states its 5.3 percent higher than

15:03:02 18 the average rate of last 4 build-to-suit projects

15:03:06 19 in prince William county do you see that?

15:03:09 20 A. Yes.

15:03:09 21 Q. And number 5.3 percent higher or the value

15:03:12 22 included there 5.3 percent higher is in reference

15:03:16 23 to four projects IAD 075, 085, 095 and 096. Would

15:03:23 24 that be your understanding of that e-mail?

15:03:23 25 MS. PAPEZ: Objection. Form.

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15:03:27 1 A. Yeah those are the ones that they're going

15:03:30 2 to compare it to.

15:03:30 3 BY MR. LITTLE:

15:03:32 4 Q. Those are all Amazon projects that were

15:03:35 5 previously completed?

15:03:35 6 MS. PAPEZ: Objection. Form.

15:03:37 7 A. I assume so. Yes based on the site codes.

15:03:41 8 Yeah.

15:03:41 9 BY MR. LITTLE:

15:03:42 10 Q. Microsoft isn't using your site codes

15:03:45 11 correct?

15:03:45 12 MS. PAPEZ: Objection. Form.

15:03:47 13 A. Yes without thoughing the details based on

15:03:50 14 the labels yeah those sound like our datacenters.

15:03:50 15 BY MR. LITTLE:

15:03:55 16 Q. So then after the information is

15:03:57 17 provided about the above average rent is there an

15:04:00 18 explanation for why the rent is above what the

15:04:02 19 prior costs have been?

15:04:04 20 MS. PAPEZ: Objection. Form.

15:04:07 21 A. Yeah it highlighted two primary drivers.

15:04:07 22 BY MR. LITTLE:

15:04:11 23 Q. What are those two drivers.

15:04:14 24 A. What I'm reading is a higher shell cost

15:04:18 25 per square foot based on using a two story center

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15:04:21 1 design and the second driver is higher land price

15:04:28 2 based on you know market rates that are referred

15:04:31 3 to as higher cost and same benchmark rates.

15:04:31 4 BY MR. LITTLE:

15:04:37 5 Q. Those explanations seem reasonable to you?

15:04:37 6 MS. PAPEZ: Objection. Form.

15:04:41 7 A. Yeah as written they do yes.

15:04:41 8 BY MR. LITTLE:

15:04:44 9 Q. It is in your experience more expensive to

15:04:48 10 build a two-story datacenter than a one-story

15:04:52 11 datacenter?

15:04:52 12 MS. PAPEZ: Objection. Form.

15:04:55 13 A. It is an absolute cost yes, on a cost per

15:04:59 14 unit capacity, like TKE or perhaps watt Z no.

15:04:59 15 BY MR. LITTLE:

15:05:08 16 Q. So for the purposes of the developer

15:05:09 17 charging you absolute costs the cost would be

15:05:11 18 higher on an absolute basis as to what the

15:05:14 19 developer charges Amazon is that accurate?

15:05:17 20 MS. PAPEZ: Objection. Form.

15:05:19 21 A. That is probably accurate an true yes.

15:05:19 22 BY MR. LITTLE:

15:05:22 23 Q. Its true is it not that rent is based on

15:05:27 24 developers costs in some formula and not on T K

15:05:33 25 Es?

15:05:33 1 MS. PAPEZ: Objection. Form.

15:05:38 2 A. Rent would be based on primarily the
15:05:43 3 developers cost, cost to the bidding the structure
15:05:46 4 and the structure, yes.

15:05:46 5 BY MR. LITTLE:

15:05:48 6 Q. T K Es don't affect the rent directly
15:05:51 7 correct?

15:05:51 8 MS. PAPEZ: Objection. Form.

15:05:53 9 A. Not directly. Indirectly I guess you
15:05:58 10 could say more TKEs requires more space, more
15:06:04 11 infrastructure, more construction, more cost.

15:06:04 12 BY MR. LITTLE:

15:06:08 13 Q. And ultimately TKEs when it's relevant for
15:06:11 14 your demand signals and supply, correct?

15:06:12 15 MS. PAPEZ: Objection. Form?

15:06:13 16 A. Yes we use TKE because it includes that
15:06:15 17 unit of power which ties back to servers which
15:06:16 18 ties back to uses.

15:06:18 19 Q. The second explanation about increase land
15:06:22 20 trends that are 5.6 per year higher across the
15:06:25 21 same benchmark does that seem like a second
15:06:28 22 reasonable explanation?

15:06:35 23 MS. PAPEZ: Objection. Form.

15:06:35 24 A. Yeah its -- I have seen explanations like
15:06:39 25 thatment seems reasonable.

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15:06:39 1 BY MR. LITTLE:

15:06:41 2 Q. If that information were incorrect and
15:06:43 3 there weren't actually increases in land values,
15:06:46 4 would that be something you could objective live
15:06:49 5 determine?

15:06:49 6 MS. PAPEZ: Objection. Form.

15:06:50 7 A. I would not be able to objectively
15:06:57 8 determine. I would relay on real estate
15:07:00 9 transaction managers to provide evidence and data
15:07:03 10 backing up that assertion.

15:07:03 11 BY MR. LITTLE:

15:07:06 12 Q. Let me ask it the different way if someone
15:07:09 13 leave believes that a transaction manager provided
15:07:11 14 inaccurate information about average land value if
15:07:14 15 an area do you believe there is a method in which
15:07:18 16 you could assess whether they provided accurate
15:07:21 17 information or not?

15:07:21 18 MS. PAPEZ: Objection. Form.

15:07:24 19 A. I believe we can gather data to

15:07:25 20 objectively access the accuracy and the
15:07:30 21 information.

15:07:30 22 BY MR. LITTLE:

15:07:31 23 Q. In your experience land values are
15:07:33 24 generally public record are they not?

15:07:33 25 MS. PAPEZ: Objection. Form.

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15:07:37 1 A. Yeah, generally based on recent
15:07:40 2 transactions and comparables.

15:07:40 3 BY MR. LITTLE:

15:07:43 4 Q. Are you aware that in Virginia you have to
15:07:45 5 register your transaction with the county, for
15:07:50 6 example, when you make a land purchase?

15:07:56 7 MS. PAPEZ: Objection. Form.

15:07:56 8 A. I was ain't ware of that specific that
15:07:58 9 seems reasonable.

15:07:58 10 BY MR. LITTLE:

15:08:00 11 Q. Is that consistent with our knowledge of
15:08:01 12 how the purchase of real estate happens around the
15:08:04 13 United States?

15:08:04 14 A. Yes consistent with any knowledge of

15:08:07 15 commercial and residential real estate.

15:08:08 16 Q. Would have a system of deeds for property?

15:08:08 17 MS. PAPEZ: Objection. Form.

15:08:13 18 A. Correct.

15:08:13 19 Q. And those deeds tend to be documented in

15:08:18 20 some form of local Government?

15:08:18 21 MS. PAPEZ: Objection. Form.

15:08:21 22 A. Yeah I believe that's my understanding

15:08:22 23 yes.

15:08:22 24 BY MR. LITTLE:

15:08:23 25 Q. And sorry do belabor this but these dieds

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15:08:28 1 can be reviewed by parties seeks to ascertain

15:08:31 2 what's happening in prior transactions in terms of

15:08:34 3 the land value?

15:08:35 4 MS. PAPEZ: Objection. Form.

15:08:36 5 A. I believe that's true and that's how it

15:08:42 6 works.

15:08:42 7 BY MR. LITTLE:

15:08:43 8 Q. I'm going to turn your attention to the

15:08:46 9 bottom of that page?

15:08:51 10 A. Page 4.

15:08:52 11 Q. Is there a similar section this red about

15:08:54 12 IAD 131 annual lease rate for it?

15:08:59 13 A. I see it.

15:09:00 14 Q. And are similar answers provided for the

15:09:03 15 reason of the higher than average rate of rent?

15:09:11 16 That was rate of rent above

15:09:13 17 A. Yes.

15:09:13 18 Q. Is there any other part of either of those

15:09:16 19 two CARs that are highlighted in red?

15:09:22 20 A. Doesn't appear to be.

15:09:24 21 Q. Is it fair to say based on the fact that

15:09:27 22 whoever placed it in red they wanted to emphasize

15:09:30 23 those sections for whoever would be reading it?

15:09:32 24 MS. PAPEZ: Objection. Forminging?

15:09:38 25 A. Its reasonable. I don't know that -- I

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15:09:41 1 don't know why somebody highlighted red but its

15:09:43 2 reasonable that that could be a reason. Yes.

15:09:43 3 BY MR. LITTLE:

15:09:47 4 Q. It certainly highlights that section as

15:09:49 5 opposed to the other sections does it not?

15:09:51 6 A. It does.

15:09:52 7 Q. Turn your attention to a new exhibit this

15:09:55 8 is going to be document ten?

15:09:58 9 (Exhibit 10 was marked.)

15:10:06 10 BY DEFENSE COUNSEL:

15:10:06 11 Q. Take a moment to look at this document and

15:10:08 12 tell me if you can describe it okay?

15:10:40 13 Q. Top e-mail appear to be an e-mail that you

15:10:43 14 wrote to Casey Kirschner and copy add few others?

15:10:46 15 A. Yes.

15:10:46 16 Q. Does its provide some requests of you to

15:10:50 17 Casey Kirschner?

15:10:54 18 A. Yes. I thinks there was a request

15:10:58 19 properly in the attachment but yes.

15:11:00 20 Q. And then further down is there an e-mail

15:11:02 21 from Casey Kirschner to you copying a few others?

15:11:05 22 A. Yes.

15:11:06 23 Q. Based on reviewing the e-mail between

15:11:10 24 Casey Kirschner and you on May 31st does that lead

15:11:13 25 you to believe that you and Casey met to discuss

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15:11:16 1 the IAD 131 project?

15:11:16 2 MS. PAPEZ: Objection. Form.

15:11:21 3 A. I believe we had a dialogue about this

15:11:24 4 it's not clear to me whether we met or had a phone

15:11:27 5 call.

15:11:27 6 BY MR. LITTLE:

15:11:28 7 Q. Understood you had a conversation of some

15:11:31 8 sort?

15:11:31 9 A. It it appears. That's right.

15:11:33 10 Q. I'm going to mark document 11 CV 10?

15:11:46 11 (Exhibit 10 was marked.)

15:11:47 12 A. Okay. I have it.

15:11:54 13 Q. Do you see it appears to be relate today

15:11:56 14 just IAD 130 and 131?

15:11:56 15 MS. PAPEZ: Objection. Form.

15:12:02 16 A. Yes.

15:12:02 17 BY MR. LITTLE:

15:12:03 18 Q. Do you have any we to tell from this

15:12:05 19 document who has input the information for this

15:12:08 20 document?

15:12:09 21 MS. PAPEZ: Objection. Form.

15:12:10 22 A. Just scanning through the document, no, I

15:12:14 23 don't see any names or indicators or flags, text,

15:12:20 24 indicated by what.

15:12:20 25 BY MR. LITTLE:

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15:12:23 1 Q. I'll turn your attention to the bottom of
15:12:25 2 page 2 specifically?

15:12:28 3 A. To okay.

15:12:30 4 Q. Deuce a portion in red with brackets that
15:12:32 5 say I thought we were going to take a shot?

15:12:34 6 A. I see that.

15:12:35 7 Q. Does that you poor to be text with a CAR
15:12:37 8 or commentary on the CAR?

15:12:37 9 MS. PAPEZ: Objection. Form.

15:12:42 10 A. It appears to be commentary on the CAR.

15:12:42 11 BY MR. LITTLE:

15:12:49 12 Q. Do you know who would have made that
15:12:51 13 commentary?

15:12:52 14 A. I don't. I don't know who made it. Could
15:12:59 15 have been me based on the e-mail that you showed
15:13:01 16 me just previously.

15:13:02 17 Q. It's fair to say there are changes and
15:13:06 18 requests made like this regularly in the CARs are
15:13:09 19 they not?

15:13:09 20 MS. PAPEZ: Objection. Form.

15:13:11 21 A. Yes.

15:13:11 22 BY MR. LITTLE:

15:13:12 23 Q. It's a collaborative process?

15:13:12 24 MS. PAPEZ: Objection. Form.

15:13:19 25 A. It a collaborative in the sense that

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15:13:21 1 information is put forward. Decision-makers like
15:13:25 2 myself review that and provide either feedback on
15:13:31 3 what needs to be provided in order for me to
15:13:35 4 exercise my decision making authority and a time
15:13:38 5 that I provide feedback off line collaboratively
15:13:41 6 to help people kind of any and set up principle as
15:13:45 7 guidelines to make it easier for they will to put
15:13:47 8 up work.

15:13:48 9 Q. Is one of Amazon leadership principles
15:13:51 10 disagree and commit?

15:13:51 11 MS. PAPEZ: Objection. Form.

15:13:53 12 A. Yes, it is.

15:13:53 13 BY MR. LITTLE:

15:13:55 14 Q. What does that mean?

15:13:56 15 A. That means that in situation where the
15:14:03 16 data is not clear and where we have to apply
15:14:06 17 judgement to make a decision, there may be

15:14:08 18 differing points of views about what the right
15:14:10 19 course of action or decision is to take and as
15:14:15 20 leaders and Amazonians in any level we're expected
15:14:19 21 to get in the room, have our say and have a good
15:14:22 22 debate, but at the end we make the decision. Once
15:14:25 23 we make the decision everybody is expected to get
15:14:28 24 on board whether they agreed with the decision or
15:14:30 25 whether they disagree, and what that commitment

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15:14:33 1 means is when if I may have disagreed with the
15:14:38 2 outcome of a decision I'm still expected to get in
15:14:41 3 and support that decision fully even though that
15:14:43 4 was not my recommendation.

15:14:56 5 Q. Is that true to litigation?

15:14:59 6 MS. PAPEZ: Objection. Form.

15:15:00 7 A. I'm not sure howed applies context.

15:15:00 8 BY MR. LITTLE:

15:15:03 9 Q. Did you make the decision to file a
15:15:05 10 lawsuit that you're hear to be deposed about
15:15:08 11 today?

15:15:08 12 MS. PAPEZ: Objection. Form.

15:15:09 13 A. I did not make the decision. I did
15:15:13 14 approve on behalf of Amazon the complaint after
15:15:17 15 reviewing the information presented from your
15:15:20 16 investigation.

15:15:20 17 BY MR. LITTLE:

15:15:21 18 Q. Who within the Amazon business side made
15:15:23 19 the decision to bring this lawsuit?

15:15:23 20 MS. PAPEZ: Objection. Form.

15:15:27 21 A. It would be all of the internal counsel
15:15:32 22 that participated in the investigation on review
15:15:35 23 with myself and others that collectively we made
15:15:39 24 that decision to bring that lawsuit.

15:15:39 25 BY MR. LITTLE:

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15:15:42 1 Q. When you say others are there others you
15:15:44 2 at higher level at Amazon that made the decision
15:15:47 3 to bring the lawsuit?

15:15:47 4 MS. PAPEZ: Objection. Form.

15:15:48 5 A. I actually cannot say. My interactions
15:15:51 6 with our internal counsel and legal counsel I want
15:15:57 7 part of any group discussion or decision.

15:15:57 8 BY MR. LITTLE:

15:16:00 9 Q. To be clear when you say you cannot say
15:16:02 10 you do not know is that fair?

15:16:04 11 A. Yes, that is fir, I do not --

15:16:08 12 Q. Sit during the CAR process was there
15:16:11 13 active debate about the decisions to be made in
15:16:15 14 the car process?

15:16:16 15 MS. PAPEZ: Objection. Form ask?

15:16:20 16 A. On occasion we would debate detail about
15:16:26 17 the CARs of details about is this a good price,
15:16:30 18 not a good price. Is this the right time not to
15:16:33 19 right time. So the debate was generally around
15:16:36 20 the details of a given transaction.

15:16:36 21 BY MR. LITTLE:

15:16:44 22 Q. Did the environment of debate allow people
15:16:47 23 to raise objections if they had them?

15:16:47 24 MS. PAPEZ: Objection. Form.

15:16:48 25 A. Yes, it did.

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15:16:48 1 BY MR. LITTLE:

15:16:50 2 Q. Are you aware of anyone who felt like they
15:16:52 3 could not raise objections to things that were

15:16:54 4 corned about with the CAR process?

15:16:54 5 MS. PAPEZ: Objection. Form.

15:16:59 6 A. No I'm not aware of that.

15:16:59 7 BY MR. LITTLE:

15:17:03 8 Q. Are you aware of anyone who was feeling

15:17:06 9 uncomfortable raising objections to certain

15:17:09 10 transactions if they had concerns about them?

15:17:09 11 MS. PAPEZ: Objection. Form.

15:17:11 12 A. I'm not aware of anybody with holding any

15:17:14 13 questions or objections to transactions.

15:17:14 14 BY MR. LITTLE:

15:17:16 15 Q. To do so would be counter to Amazons

15:17:19 16 corporate culture would it not?

15:17:19 17 MS. PAPEZ: Objection. Form.

15:17:23 18 A. Yes we expect people to speak up when they

15:17:26 19 object.

15:17:26 20 BY MR. LITTLE:

15:17:28 21 Q. Now go back to a talking to you about

15:17:33 22 CARs. When you ultimately make a decision to

15:17:35 23 approve a CAR what is the guiding principal for

15:17:38 24 you?

15:17:38 25 MS. PAPEZ: Objection. Form.

15:17:48 1 A. I don't know if there's a principle going
15:17:50 2 back to some of things that we discussed earlier
15:17:52 3 this things that I'm look that can that form my
15:17:55 4 opinion or guide my approval and rejection social
15:17:59 5 security fit physical attributes is this a good
15:18:02 6 asset for a purchase is it good financial for us
15:18:05 7 is it in line with our expectations and 3, is this
15:18:11 8 are there any unique or out of the ordinary terms,
15:18:16 9 conditions, or something else that we believe
15:18:21 10 would present a problem.

15:18:21 11 BY MR. LITTLE:

15:18:23 12 Q. Why are those to 3 categories that you use
15:18:26 13 to access questions in the CAR process?

15:18:26 14 MS. PAPEZ: Objection. Form.

15:18:33 15 A. By the way I would add a fourth is it --
15:18:38 16 is it in our financial plan budget, etc., so.

15:18:38 17 BY MR. LITTLE:

15:18:42 18 Q. We asked that why are those 4 categories
15:18:45 19 to categories to you use to guide your judgment in
15:18:48 20 making decisions in the process?

15:18:55 21 MS. PAPEZ: Objection form misat a times
15:18:58 22 testimony.

15:19:00 23 A. What I'm summarizing are high levels of
15:19:04 24 criteria those are generally the things we look at

15:19:06 25 to decide whether this is the right asset at the

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15:19:09 1 right time for the right business purpose at the

15:19:12 2 right cost.

15:19:12 3 BY MR. LITTLE:

15:19:14 4 Q. Do you believe that doing that you are

15:19:17 5 making a decision about what is in Amazon's best

15:19:20 6 interest?

15:19:20 7 MS. PAPEZ: Objection. Form.

15:19:22 8 A. Yes.

15:19:22 9 BY MR. LITTLE:

15:19:26 10 Q. Are there any guidelines within Amazon

15:19:28 11 about the guide the exercise of judgment that you

15:19:32 12 have just described?

15:19:38 13 MS. PAPEZ: Objection. Form.

15:19:38 14 A. The primary guideline around Ear sizing

15:19:42 15 judgement is transparency. Its -- I'm not as a

15:19:47 16 CAR approver I'm not expected to be an expert this

15:19:50 17 everything I'm not expected to have all the

15:19:52 18 answers I'm not expected to be right every time.

15:19:55 19 Transparency and sharing details across other

15:19:58 20 peers who have differ perspectives different areas
15:20:01 21 of expertise, by being transparent and sharings
15:20:06 22 those detail ace cross a diverse group of skilled
15:20:09 23 people who are loyal to the company we're pretty
15:20:11 24 confident that that trance parent process will
15:20:14 25 yield good decision as defensible positions for

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15:20:17 1 Amazon.

15:20:17 2 BY MR. LITTLE:

15:20:18 3 Q. When you describe transparency are you
15:20:20 4 referencing any particular policy or document
15:20:22 5 within Amazon?

15:20:22 6 MS. PAPEZ: Objection. Form.

15:20:25 7 A. Transparency not represent ago specific
15:20:29 8 document but I would point to our leadership
15:20:33 9 principles, generally expect and drive
15:20:36 10 transparency and earlier in this conversation we
15:20:39 11 talked about our code of conduct around
15:20:42 12 disclosure. That drives transparency as well.

15:20:42 13 BY MR. LITTLE:

15:20:46 14 Q. But are you aware of any document that
15:20:48 15 relates to transparency in connection with the CAR

15:20:52 16 process specifically?

15:20:52 17 MS. PAPEZ: Objection. Form.

15:20:55 18 A. No, I don't believe we have a statement on
15:20:57 19 transparency around CARs.

15:21:15 20 MR. LITTLE: Going to show you document 12
15:21:17 21 Exhibit 11.

15:21:18 22 (Exhibit 11 was marked.)

15:21:18 23 A. I have document 12.

15:21:20 24 Q. Do you see that it appears to be the code
15:21:22 25 of business conduct and ethics revised as of

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15:21:25 1 November 16, 2011?

15:21:27 2 A. Yes, I see that.

15:21:28 3 Q. Could you please review and let me know
15:21:32 4 which aspects of this policy relate to
15:21:36 5 transparency?

15:21:37 6 A. Okay stand by 3:22. Okay there are a few
15:22:33 7 things I will call your attention to if that's how
15:22:35 8 up want want to go through it.

15:22:37 9 Q. Please?

15:22:39 10 A. And the first reference I would make is on

15:22:42 11 page 1 last paragraph while the word transparency
15:22:51 12 is not used specifically the statement employees
15:22:54 13 should attempt to avoid conflict of interest
15:22:56 14 employees who believe a conflict of interest may
15:23:00 15 exist should notify the legal department that
15:23:04 16 speaks to be transparent aren't a concern that one
15:23:08 17 may have in our obligation as an employee.

15:23:11 18 Q. What is the next portion of in that you
15:23:14 19 believe relates to the concept of transparency
15:23:16 20 within AWS?

15:23:18 21 A. I'll call you to there's a section I guess
15:23:22 22 it would begin on page 5 and it talks about
15:23:25 23 frequently asked questions and if you look through
15:23:28 24 the questions that the theme and the tone is
15:23:34 25 around different hypotheticals where what should I

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15:23:38 1 do if I believe there's something unusual or wrong
15:23:44 2 in a given situation and it points people to
15:23:47 3 different contexts and what actions they should
15:23:49 4 take that is a form of transparency in our
15:23:53 5 business.

15:23:53 6 Q. And if someone violates the code of

15:23:56 7 conduct what is the maximum disciplinary penalty?

15:24:03 8 MS. PAPEZ: Objection. Form?

15:24:05 9 BY DEFENSE COUNSEL:

15:24:05 10 Q. As you understand it?

15:24:06 11 A. As I understand it, I believe the maximum

15:24:10 12 in most -- well it's hard for me to say what the

15:24:15 13 maximum in Tom cases its termination, separation

15:24:19 14 from the company, I can imagine that in extreme

15:24:24 15 cases that it would be penalties may be beyond

15:24:28 16 termination.

15:24:30 17 Q. What can Amazon do beyond termination?

15:24:30 18 MS. PAPEZ: Objection. Form.

15:24:34 19 A. We can engage the proceedings like this

15:24:37 20 one.

15:24:37 21 Q. Do you believe you can sue someone over a

15:24:39 22 violation of the code of conduct do you think a.m.

15:24:42 23 has that power?

15:24:42 24 MS. PAPEZ: Objection. Form.

15:24:47 25 A. I believe people are accountable for their

15:24:50 1 behavior.

15:24:51 2 Q. So my question was do you believe that
15:24:53 3 Amazon can bring a lawsuit for an employee
15:24:55 4 violating the code of conduct?

15:24:55 5 MS. PAPEZ: Objection. Form.

15:25:01 6 A. Yes, I do.

15:25:01 7 Q. What's the basis for that belief?

15:25:05 8 A. If the -- if an employee violates our code
15:25:10 9 of conduct and that results in harm financial harm
15:25:14 10 as an example for other sorts of harm to our
15:25:18 11 business I believe those employees are can annual
15:25:23 12 should believe held accountable to the harm they
15:25:25 13 have caused to our business.

15:25:25 14 BY MR. LITTLE:

15:25:29 15 Q. Solely because they violated code of
15:25:31 16 conduct?

15:25:34 17 MS. PAPEZ: Objection form misat a times
15:25:35 18 testimony.

15:25:35 19 BY MR. LITTLE:

15:25:36 20 Q. I'm trying to clarify whether that's
15:25:38 21 extent of your answer?

15:25:38 22 A. No.

15:25:41 23 MS. PAPEZ: Same objection.

15:25:41 24 A. No, not because they violated the code
15:25:44 25 conduct because their actions caused harm to our

15:25:46 1 business.

15:25:47 2 Q. I understand that and are you aware in the
15:25:48 3 context to understand that you reviewed the
15:25:50 4 complaint in this case right?

15:25:52 5 A. I have reviewed the complaint.

15:25:53 6 Q. When you bring a civil lawsuit you have to
15:25:55 7 have what what he is what's could a cause of
15:25:57 8 action do you understand that?

15:26:00 9 MS. PAPEZ:

15:26:00 10 MS. PAPEZ: Objection. Form.

15:26:00 11 A. I'm not familiar with the term cause of
15:26:03 12 action. Sorry.

15:26:03 13 BY MR. LITTLE:

15:26:05 14 Q. Are you familiar with the term tort?

15:26:07 15 A. Yes, I have heard the term tort.

15:26:10 16 Q. What does it mean to you?

15:26:13 17 A. I don't have a good definition or complete
15:26:15 18 definition of tort.

15:26:17 19 Q. Do you understand what the term claim
15:26:20 20 means in the context of a lawsuit that Amazon has
15:26:22 21 brought here?

15:26:22 22 MS. PAPEZ: Objection. Form.

15:26:24 23 A. That is a term I'm more familiar with its
15:26:27 24 in our case it's a claim that Amazon was harmed in
15:26:30 25 some way.

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15:26:30 1 BY MR. LITTLE:

15:26:33 2 Q. I want to make sure I understand clearly
15:26:35 3 your belief that the claim where Amazon has been
15:26:39 4 harm and can not arise solely from violating a
15:26:43 5 code of conduct?

15:26:45 6 MS. PAPEZ: Object to form. Misstates
15:26:46 7 testimony.

15:26:47 8 A. I take issue with the word sole. In your
15:26:50 9 statement. I don't believe its solely. No.

15:26:50 10 BY MR. LITTLE:

15:26:54 11 Q. Let me you said harm is an element of what
15:26:58 12 allows you to bring a lame. Do you believe that
15:27:01 13 Amazon can sue anyone who harms it?

15:27:01 14 MS. PAPEZ: Objection. Form.

15:27:11 15 A. I think if the harm is material Amazon can
15:27:16 16 hold people accountable and seek the appropriate
15:27:19 17 remedies or penalties yes.

15:27:19 18 BY MR. LITTLE:

15:27:21 19 Q. If the Congress were to pass a law that
15:27:24 20 materially affected Amazons profit as harmed its
15:27:27 21 finances do you believe that a.m. could sue the
15:27:30 22 U.S. Government for that?

15:27:33 23 MS. PAPEZ: Objection form calls for
15:27:34 24 speculation.

15:27:34 25 A. It seem as little extreme to me if

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15:27:37 1 Congress pass ass law companies an individuals are
15:27:39 2 expected fellow the law. They had their recourse
15:27:42 3 to challenge those laws I'm not an expert in that
15:27:47 4 domain.

15:27:47 5 BY MR. LITTLE:

15:27:48 6 Q. I appreciate that answer I'm trying to
15:27:50 7 really kind of drill down into what you believe is
15:27:53 8 the harm plus that allows Amazon to bring a
15:27:56 9 lawsuit against an employee. I have heard your
15:27:58 10 testimony that you believe harm is essential and
15:28:00 11 I'm trying to understand what the harm plus you
15:28:04 12 believe is necessary for Amazon to bring a legal
15:28:06 13 claim?

15:28:08 14 MS. PAPEZ: Is there a question Alex let
15:28:11 15 me just object to Mr. Vonderhaar is not a lawyer.
15:28:14 16 So you know I have an appreciate the questioning
15:28:16 17 an if you have after question ask it but he's not
15:28:19 18 here to testify about legal causes of action this
15:28:23 19 is not to purpose of the deposition today.

15:28:24 20 MR. LITTLE: Think this is going to get
15:28:25 21 tote point that makes sense in a second I hope.

15:28:25 22 BY MR. LITTLE:

15:28:30 23 Q. Now Mr. Vonderhaar, in connection with
15:28:32 24 reviewing this lawsuit do you understand that when
15:28:35 25 a.m. filed its lawsuit it made claims that Carl

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15:28:39 1 Nelson had violated its employment contract.

15:28:42 2 MS. PAPEZ: Objection. Form.

15:28:44 3 A. I -- yes, you violate -- I'll more
15:28:48 4 familiar with he violated our code of conduct
15:28:53 5 generally.

15:28:53 6 BY MR. LITTLE:

15:28:54 7 Q. So you believe -- are you aware that
15:28:57 8 Amazon also brought a claim that he violated the

15:29:01 9 confidentially and noncompete agreement?

15:29:04 10 A. Now that you say that I do recall that.

15:29:06 11 Yes.

15:29:06 12 Q. Are you aware that when Amazon brought
15:29:09 13 that lawsuit and filed it under penalty of perjury
15:29:11 14 in federal court that it used the contract from a
15:29:14 15 different Carl Nelson and not to Carl Nelson who
15:29:18 16 worked for AWS real estate?

15:29:22 17 MS. PAPEZ: Objection. Form. Foundation.

15:29:23 18 A. That I was not familiar that is news to
15:29:26 19 me.

15:29:26 20 Q. Would its surprise you that Amazon had to
15:29:29 21 aid mend its complaint to include the correct
15:29:31 22 provisions of contract that it alleged was
15:29:35 23 violated?

15:29:37 24 MS. PAPEZ: Objection form.

15:29:38 25 A. If Amazon made a mistake it would not

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15:29:41 1 surprise me as to they would correct that mistake.

15:29:44 2 Q. I'm asking would you surprise you if
15:29:47 3 Amazon would make amistake of that nature?

15:29:47 4 MS. PAPEZ: Objection. Form.

15:29:51 5 A. Not particularly. Look, it's a big
15:29:56 6 company, I didn't know there were multiple Carl
15:29:59 7 Nelsons I can imagine a request going to somebody
15:30:02 8 in the company who did their reasonable and level
15:30:07 9 best to provide the information that was requested
15:30:10 10 and may have made a mistake.

15:30:13 11 BY GOVERNMENT COUNSEL:

15:30:14 12 Q. People the cake honest mistakes can't
15:30:17 13 they?

15:30:17 14 MS. PAPEZ: Objection. Form.

15:30:17 15 A. Yes.

15:30:17 16 BY MR. LITTLE:

15:30:19 17 Q. Even though it involves greatly serious
15:30:21 18 matters correct?

15:30:21 19 MS. PAPEZ: Objection. Form.

15:30:24 20 A. Yes.

15:30:24 21 BY MR. LITTLE:

15:30:31 22 Q. And -- I'll hold that question. We've
15:30:38 23 been going thousand for an hour 5 and I'll going
15:30:42 24 to be switching gears here I have got three or
15:30:45 25 four more questions is it okay if we stop after

15:30:47 1 those.

15:30:47 2 A. Absolutely I'm here for the duration.

15:30:47 3 BY MR. LITTLE:

15:30:54 4 Q. So back to my question of you talked about
15:30:57 5 transparency and transparency being important but
15:30:59 6 I want to go back to the line of question before
15:31:01 7 then about decision makes a determining whethering
15:31:05 8 is something is in Amazon's best interest.

15:31:07 9 Besides what you have testified already or what
15:31:09 10 are a factors -- I'll strike that what do you
15:31:12 11 believe the factors make a transaction in Amazon's
15:31:17 12 best breast?

15:31:19 13 MS. PAPEZ: Objection. Form.

15:31:19 14 A. I'm going to bo back to the things that I
15:31:21 15 have kind of centered on which is asset and the
15:31:24 16 acquisition a good asset sit going to serve our
15:31:27 17 business needs well is it a good fit for us. Is
15:31:30 18 it financially appropriate and attractive, is it
15:31:36 19 within our kind of expectations and boundaries.
15:31:39 20 Are there -- is it void or free of any unusual
15:31:45 21 risks or things that we'll have to deal with
15:31:51 22 overtime and does it fit within our financial plan
15:31:55 23 or budget in a given fiscalier or time period. So
15:31:59 24 those things we evaluate those things and try to

15:32:02 25 get as much detail about those as we can we review

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15:32:05 1 it deeply as we can and base odd than we forward

15:32:08 2 or recommendation to say we believe this is a good

15:32:11 3 transaction for Amazon.

15:32:15 4 Q. I think with that I'll take a break. It

15:32:17 5 is 3:32 eastern why don't we come back at 3:45

15:32:22 6 eastern?

15:32:24 7 MS. PAPEZ: Sounds good.

15:32:27 8 MR. LITTLE: This will be the section

15:32:28 9 where I will be discussing the attorneys eyes only

15:32:31 10 stuff so when I come back on if Mr. Watson and

15:32:36 11 Mr. Kirk aren't on I can direct them to when I'm

15:32:41 12 starting that section.

15:32:42 13 MS. PAPEZ: Okay thank you.

15:32:43 14 THE VIDEOGRAPHER: Off the record at 3:32

15:47:28 15 p.m.

15:47:28 16 (Proceedings resumed.)

15:47:29 17 THE VIDEOGRAPHER: Wac to the record at

15:47:40 18 3:47.

15:47:40 19 BY MR. LITTLE:

15:47:41 20 Q. Before the break we were just talking

15:47:42 21 about different aspects of the code of conduct and
15:47:46 22 other issues and I want to ask you just as broadly
15:47:49 23 as possible what is your understanding that the
15:47:52 24 harm has Amazon has incurred in connection with
15:47:56 25 the transactions that are at issue in this

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15:47:58 1 lawsuit?

15:47:58 2 MS. PAPEZ: Objection. Form.

15:48:05 3 A. I think broadly speaking the harm take as
15:48:08 4 few forms. One, there's the harm relative to I'll
15:48:22 5 say paying for services or fees or parts of that
15:48:25 6 deal for this datacenter capacity that we couldn't
15:48:28 7 have otherwise paid because that money was
15:48:34 8 funneled back the a different of other entitiesen
15:48:37 9 including Carl and Casey, I think frankly the harm
15:48:41 10 that I'm fairly disappointed about is we had
15:48:50 11 employees knowingly take advantage of of their
15:48:57 12 colleagues they a peer in the good will and myself
15:48:59 13 and others extended in terms of building and
15:49:02 14 managing a process called the CAR process and I
15:49:05 15 feel like myself and others were manipulated

15:49:09 16 through that process for somebody else's own
15:49:13 17 personal gain and so there's that harm in terms of
15:49:16 18 credibility and maybe the what myself and others
15:49:21 19 work so hard to accomplish in terms of trust and
15:49:27 20 transparency and I think there are probably other
15:49:29 21 forms of harm that frankly we haven't yet figured
15:49:33 22 out or discovered yet because I don't know if we
15:49:36 23 even covered everything that transpired or took
15:49:40 24 place here.

15:49:42 25 Q. The first thing you pension mentioned but

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15:49:46 1 pain money that Amazon went through otherwise have
15:49:49 2 paid. What money do you believe that Amazon would
15:49:52 3 not have otherwise have paid as a result of these
15:49:57 4 transactions?

15:49:57 5 A. In there is particular transactions we
15:50:01 6 paid money that went through various companies and
15:50:08 7 hands and ended up in the pockets of our employees
15:50:13 8 whom we were already pay ago compensation or
15:50:17 9 salary to. So that money that Amazon made
15:50:21 10 available to myself and others was not intended to
15:50:25 11 be put back into the pockets of our employees it

15:50:28 12 was intended to acquire asset for the customer.

15:50:31 13 Q. What personal information do you have that
15:50:33 14 that is what transpired?

15:50:39 15 A. What I have learned through this
15:50:40 16 investigation an through the complaint documents
15:50:42 17 that I have read and signed is that Amazon paid
15:50:45 18 money that went through set of I'll call them
15:50:50 19 shell companies or proaxial companies I should
15:50:54 20 stay away from technical terms but went to a set
15:50:56 21 of companies like Northstar or white peaks but
15:51:00 22 made its way back to Carl and Casey who was
15:51:03 23 employees of ours at the time.

15:51:04 24 Q. And I guess I'm trying to say is what you
15:51:06 25 reference there's an investigation that was done?

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15:51:10 1 A. Yes.

15:51:10 2 Q. Who was that investigation done by?

15:51:12 3 A. Investigation was done by various officers
15:51:16 4 and workers an leaders within Amazon.

15:51:20 5 Q. Who are those people?

15:51:23 6 A. Folks on a.m.'s legal counsel. I don't

15:51:27 7 know who did what specifically. I reviewed the
15:51:30 8 out put of that investigation.

15:51:32 9 Q. Do you have any reason to believe that the
15:51:34 10 out put -- what -- you said the money ended up in
15:51:39 11 the pockets of Carl and Casey. What is your
15:51:41 12 understanding of how that actually transpired?

15:51:48 13 A. My understanding based on the review of
15:51:51 14 the documents in the case money was paid to
15:51:53 15 developers of I may not have autocompany names
15:52:00 16 right but I remember the name star white peaks
15:52:04 17 anvil nova and that money that was intended for
15:52:08 18 purchase and acquisition of properties that we
15:52:10 19 have been talking about I believe 9 build-to-suit
15:52:13 20 properties and two others actually didn't just go
15:52:16 21 for the purchase and acquisition and development
15:52:18 22 of those plots some amount of that money was
15:52:23 23 funneled back through various other properties
15:52:28 24 directly to Carl and Casey for their own personal
15:52:30 25 gain and use one form or monetary I think there

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15:52:33 1 was reference to a fishing trip in Florida that I
15:52:36 2 read which goes back to that gift conversation we

15:52:39 3 had.

15:52:39 4 Q. Is also personal gain money that somebody

15:52:43 5 had to pay for that?

15:52:45 6 Q. I guess I'm trying to understand is

15:52:47 7 besides the investigation done by Amazon's counsel

15:52:52 8 do you have any personal knowledge of any of these

15:52:57 9 facts that you're describing?

15:52:59 10 A. No, I don't have personal facts I didn't

15:53:01 11 do my own investigation I'm relaying what I have

15:53:05 12 read in the complaint.

15:53:07 13 Q. If the investigators have made mistakes in

15:53:11 14 your investigation could that change your view as

15:53:14 15 to what actually transpired?

15:53:14 16 MS. PAPEZ: Objection. Form.

15:53:16 17 A. If mistakes were made and presented back

15:53:22 18 then yeah presented with new information like any

15:53:25 19 other a reasonable decision-maker, if new

15:53:28 20 information comes to like I would definitely

15:53:38 21 consider that.

15:53:38 22 Q. Do you know whether other people at Amazon

15:53:40 23 had taken that position?

15:53:40 24 MS. PAPEZ: Objection. Form.

15:53:40 25 A. No, I'm not aware of other people's

15:53:40 1 positions on that.

15:53:40 2 Q. You're aware that Amazon as a company AWS
15:53:49 3 sought to have Carl and Casey charged by the
15:53:51 4 federal government in connection with these
15:53:52 5 transactions, don't you

15:53:56 6 MS. PAPEZ: Objection. Form.

15:53:57 7 A. I'm aware there's an investigation going
15:53:58 8 on.

15:53:59 9 Q. And are you aware that was an
15:54:01 10 investigation initiated by your company?

15:54:04 11 MS. PAPEZ: Objection. Form.

15:54:07 12 A. I'm not aware I don't know the detail of
15:54:10 13 who initiated what when.

15:54:12 14 Q. Are you aware that that's been going on
15:54:14 15 thousand for over two years?

15:54:21 16 A. Roughly yes.

15:54:22 17 Q. Are you aware that the government gave
15:54:23 18 back the vast majority of the money it seized from
15:54:27 19 Carl Nelson?

15:54:29 20 MS. PAPEZ: Objection. Form.

15:54:29 21 A. No. I don't know what was seized, and I
15:54:32 22 don't know what was given back.

15:54:40 23 Q. If I told you the government based on the
15:54:42 24 accusations made by your company seized \$635,000
15:54:44 25 from Carl, that's new information to you?

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15:54:51 1 MS. PAPEZ: Objection. Form.

15:54:52 2 A. Yes.

15:54:53 3 Q. If I told you that approximately a month
15:54:54 4 ago the government returned \$525,000 of that
15:54:56 5 amount that's also new information to you?

15:54:56 6 MS. PAPEZ: Objection. Form.

15:55:00 7 A. Yes. New information.

15:55:00 8 BY MR. LITTLE:

15:55:04 9 Q. So you don't know also the Government has
15:55:06 10 reached similar settlements with Casey Kirschner
15:55:09 11 and other individuals for whom it seized money?

15:55:09 12 MS. PAPEZ: Objection. Form.

15:55:13 13 A. No. Not aware of those settlements.

15:55:13 14 BY MR. LITTLE:

15:55:18 15 Q. You understand a that the FBI has the
15:55:20 16 ability to conduct investigations in a manner that
15:55:22 17 general lawyers and law firms cannot?

15:55:22 18 MS. PAPEZ: Objection. Form.

15:55:31 19 A. Generally, yes.

15:55:31 20 Q. Do you have any reason to believe that

15:55:33 21 Carl or Casey had been charged in the last two

15:55:35 22 years by the federal government with a crime?

15:55:46 23 MS. PAPEZ: Objection. Form.

15:55:46 24 A. I don't know.

15:55:46 25 BY MR. LITTLE:

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15:55:48 1 Q. Do you have any reason to believe they

15:55:49 2 have?

15:55:49 3 MS. PAPEZ: Objection. Form.

15:55:50 4 A. I don't have any reason to believe they

15:55:51 5 have been charged.

15:55:51 6 BY MR. LITTLE:

15:55:59 7 Q. I want to drill down on this understanding

15:56:01 8 that you say was harm there was money that was

15:56:04 9 provided to Amazon money that was meant for a

15:56:06 10 certain purpose, how much was the harm that Amazon

15:56:10 11 faced as a result of the transactions you

15:56:13 12 described?

15:56:13 13 MS. PAPEZ: Objection. Form.

15:56:22 14 A. I don't remember the specific amounts
15:56:24 15 matched but I believe it was on the scale of
15:56:26 16 millions of dollars that we made available to
15:56:30 17 purchase and acquire these as sets that went back
15:56:33 18 to I believe Mr. Watson Casey and Carl.

15:56:37 19 Q. Mr. Watson is the owner of knot star
15:56:41 20 correct?

15:56:41 21 A. Yes.

15:56:42 22 Q. Would it be unusual for the owner of a
15:56:47 23 development company to make deal it does with
15:56:51 24 Amazon?

15:56:51 25 MS. PAPEZ: Objection. Form.

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15:56:52 1 A. I don't know that its unusual. I just --
15:56:56 2 I know that was part of the complaint though.

15:56:58 3 Q. Explain to me how that is harm to Amazon
15:57:02 4 that developer who does a deal with Amazon profits
15:57:05 5 off that development?

15:57:08 6 MS. PAPEZ: O form misstates testimony.

15:57:10 7 A. There are a couple of things that went
15:57:13 8 wrong and caused harm. First we paid more money
15:57:20 9 than I believe we should have paid.

15:57:27 10 Q. You said we paid more money than we should

15:57:30 11 have by we do you mean AWS?

15:57:32 12 A. Yes, sorry AWS.

15:57:35 13 Q. Are you aware of or have you made a

15:57:36 14 calculation of how much more money AWS paid for

15:57:40 15 any of these transactions?

15:57:40 16 MS. PAPEZ: Objection. Form.

15:57:51 17 A. I'm aware that some of those amounts

15:57:53 18 detailed in the complaint totaling several million

15:57:57 19 dollars calculated by folks doing the investigation

15:58:00 20 and I have read that as part of the complaint.

15:58:00 21 BY MR. LITTLE:

15:58:03 22 Q. I think it would be useful to talk in

15:58:06 23 specifics so I'm happy to show you the complaint

15:58:08 24 to let you reference to me what you're talking

15:58:10 25 about. I'm going to mark as Exhibit 12 it will be

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15:58:16 1 document 13.

15:58:17 2 (Exhibit 12 was marked.)

15:58:29 3 MR. LITTLE: Do you have that, sir.

15:58:30 4 A. Yes.

15:58:30 5 Q. Can you please point me to an area where
15:58:34 6 you believe Amazon has calculated the amount that
15:58:37 7 you describe be paid too much or be paid more
15:58:41 8 than?

15:58:42 9 MS. PAPEZ: Objection. Form?

15:58:44 10 BY DEFENSE COUNSEL:

15:58:44 11 Q. Make sure I got your testimony you
15:58:47 12 testified that you believe Amazon paid too much
15:58:49 13 for these transactions; is that correct?

15:58:52 14 A. We paid mar than we should have.

15:58:54 15 Q. More than you should have is there a
15:58:55 16 difference between more than you should have and
15:58:57 17 too much?

15:59:03 18 MS. PAPEZ: Objection. Form.

15:59:03 19 A. No. Its -- we paid more than we would
15:59:09 20 have paid had there not been additional money
15:59:12 21 earmarked final back kickbacks pay to play
15:59:15 22 whatever you want to call it an routed to Casey
15:59:17 23 and Carl and if you other looking for a reference.

15:59:23 24 MR. LITTLE: You appreciate that we got to
15:59:24 25 get the rest of that answer out and make sure I

15:59:26 1 understand it. So are you headaching that
15:59:28 2 reference in reference to more than a standard
15:59:30 3 market transaction is that a reference point for
15:59:33 4 you or not.

15:59:36 5 MS. PAPEZ: Objection. Form.

15:59:36 6 A. No, not -- it's not to only reference
15:59:40 7 point. Again we make the money available to
15:59:45 8 acquire a specific asset. We expect the terms and
15:59:48 9 the prices and the cost in great deal to be
15:59:52 10 disclosed in those CAR documents and then based on
15:59:57 11 that if we believe we're theying appropriate and
16:00:01 12 reasonable cost for services rendered then we'll
16:00:08 13 pay it. The reason inappropriate does not include
16:00:11 14 pating our employees as part of the deal.

16:00:15 15 Q. Is reasonable and appropriate in reference
16:00:18 16 to a market price or not?

16:00:21 17 MS. PAPEZ: Objection. Form.

16:00:21 18 A. That is one area of comparison but not
16:00:23 19 all.

16:00:23 20 BY MR. LITTLE:

16:00:24 21 Q. So let me ask you do you own a car?

16:00:26 22 A. I do own a car.

16:00:27 23 Q. What sort of vehicle do you have?

16:00:29 24 A. I have a Toyota Tundra pick up truck.

16:00:34 25 Q. So let's call it the truck. You got a

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16:00:36 1 truck. Did you buy that truck from a car dealer?

16:00:40 2 A. I did.

16:00:40 3 Q. Do you believe you got a fair price for

16:00:43 4 that truck?

16:00:43 5 MS. PAPEZ: Objection. Form.

16:00:48 6 A. Yes I believe I got a fair price.

16:00:50 7 Q. Do you know what the truck dealer did with

16:00:55 8 the money that earned from your sale your purchase

16:00:58 9 of truck?

16:00:58 10 MS. PAPEZ: Objection. Form.

16:01:07 11 A. Paid for truck.

16:01:08 12 Q. Does anything he did here with the money

16:01:10 13 here the purr cans of your truck affect your

16:01:13 14 feelings about the available that you receive in

16:01:15 15 that transaction?

16:01:15 16 MS. PAPEZ: Objection. Form.

16:01:17 17 A. No it doesn't but there's a big difference

16:01:22 18 between me guy ago struck and Amazon buying an

16:01:24 19 asset and that money not going to the owner of an

16:01:27 20 asset and come bag to the employees because where

16:01:31 21 our employees are concerned it does matter.

16:01:34 22 Q. Do you have a partner or children?

16:01:36 23 A. I do.

16:01:38 24 Q. We'll say a partner for purposes of this?

16:01:42 25 A. Fine yeah.

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16:01:43 1 Q. To your partner and you share assets?

16:01:43 2 MS. PAPEZ: Objection. Form.

16:01:48 3 A. We do.

16:01:48 4 BY MR. LITTLE:

16:01:49 5 Q. So if you learned after your partner

16:01:55 6 recommended that you go buy the Toyota Tundra from

16:01:58 7 a specific dealer and later after you purchase

16:02:01 8 that price for a price you thought was reasonable

16:02:03 9 that dealer add bought your partner a gift. Would

16:02:07 10 that change your views about whether or not to

16:02:09 11 deal you got from the toy I can't that truck

16:02:12 12 dealer was a fair deal or not?

16:02:18 13 MS. PAPEZ: Objection. Form.

16:02:19 14 A. Yeah actually it would. It would.

16:02:19 15 BY MR. LITTLE:

16:02:23 16 Q. Explain to me why?

16:02:24 17 A. Well, for starters while I don't think I
16:02:31 18 would necessarily be angry with my spouse case but
16:02:34 19 that would make me wonder what other shady stuff
16:02:37 20 is that car dealer doing what other things are
16:02:39 21 based into the cost of that truck that I don't
16:02:43 22 about if they're willing to sent a gift the this
16:02:46 23 way.

16:02:46 24 Q. If the price but in the same in both those
16:02:49 25 scenarios how would you quantify the amount of

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16:02:51 1 harm in the second scenario where the car dealer
16:02:54 2 bought your wife a gift?

16:02:54 3 MS. PAPEZ: Objection. Form.

16:02:58 4 A. For start materials I will like at the
16:03:00 5 size of the gift and assume that was baked into
16:03:04 6 the cost of my struck that wouldn't be the only
16:03:07 7 thing but that would be a starter point.

16:03:08 8 Q. Where is that does that assumption come
16:03:10 9 from?

16:03:12 10 MS. PAPEZ: Objection. Form.

16:03:12 11 A. Simple inference that in order to cover

16:03:16 12 the cost of the gift the car dealer had to mark up

16:03:19 13 the cost of the truck.

16:03:19 14 BY MR. LITTLE:

16:03:24 15 Q. Do you understand how profit margins work

16:03:26 16 generally?

16:03:26 17 MS. PAPEZ: Objection. Form.

16:03:28 18 A. Generally.

16:03:28 19 BY MR. LITTLE:

16:03:29 20 Q. And if that car dealer bought the car he

16:03:31 21 sold you let's presume its knew I hope it's a nice

16:03:34 22 knew toy I can't that tun draw and he bought it

16:03:37 23 we'll assume that for the basis of the question

16:03:39 24 and he bought it for \$10,000 and was able to sell

16:03:42 25 it to you are from 11 his profit would be keeping

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16:03:45 1 operational costs aside thousand dollars correct?

16:03:48 2 A. Yes.

16:03:49 3 Q. If he disclosed to you that the cost of

16:03:53 4 the car to him by toy I can't that where he got it

16:03:57 5 was \$10,000 you would though there's spread of a

16:04:01 6 thousand dollars between price he paid for that

16:04:03 7 truck and the price he should sold you correct?

16:04:07 8 A. Yes.

16:04:07 9 Q. And if he used that thousand dollars to
16:04:09 10 give your wife the gift would you still be
16:04:11 11 concerned?

16:04:11 12 MS. PAPEZ: Objection. Form.

16:04:18 13 A. Because he didn't disclose he was going to
16:04:20 14 use the money for my wife. I'm drawing parallel
16:04:24 15 back to this process. Disclose we care about the
16:04:27 16 disclosure of what the costs are that make up one
16:04:31 17 of our purchases and we want to know those details
16:04:35 18 especially when it involves our employees.

16:04:35 19 BY MR. LITTLE:

16:04:39 20 Q. So I presume that in transactions you do
16:04:41 21 with brokers you disclose the accurate fees that
16:04:48 22 Amazon pays to a broker in the course of its real
16:04:50 23 estate transactions; is that correct?

16:04:56 24 MS. PAPEZ: Objection. Form.

16:04:58 25 A. Yes in the CAR process we ask our teams to

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16:05:01 1 gather all of details about what fees we're paying
16:05:04 2 for to whom and why.

16:05:04 3 BY MR. LITTLE:

16:05:06 4 Q. What I'm asking is when you use a broker
16:05:08 5 and you engage in a real estate transaction with
16:05:10 6 an external party I assume you provide that
16:05:12 7 external party with accurate information about the
16:05:14 8 fees that you're paying that broker or his work or
16:05:17 9 her work in that transaction?

16:05:20 10 MS. PAPEZ: Objection. Form.

16:05:20 11 BY MR. LITTLE:

16:05:25 12 Q. Is that correct?

16:05:25 13 MS. PAPEZ: Objection form foundation.

16:05:27 14 A. General whether I correct yes there's
16:05:29 15 transparency in the process of all the entities we
16:05:32 16 do.

16:05:33 17 Q. So you're not aware that Amazon has an
16:05:35 18 agreement with K B C to kick back a portion of its
16:05:40 19 fees as a rebate to Amazon that's not disclosed to
16:05:44 20 any of the individuals on the other side of those
16:05:46 21 transactions?

16:05:53 22 MS. PAPEZ: Objection form foundation.

16:05:55 23 A. In this I'm not familiar with KBC and I'm
16:05:59 24 not familiar with those agreements or fees.

16:05:59 25 BY MR. LITTLE:

16:06:04 1 Q. Any broker you're not aware that any
16:06:06 2 broker who works for Amazon kicks back undisclosed
16:06:09 3 fees to Amazon that the sellers do not know about
16:06:14 4 the?

16:06:14 5 MS. PAPEZ: Objection. Form.

16:06:18 6 A. New York Avenue no I'm not and keyword is
16:06:21 7 undisclosed so its all about transparency and
16:06:25 8 disclosure.

16:06:25 9 BY MR. LITTLE:

16:06:27 10 Q. If there is a closing statement in the
16:06:28 11 real estate transaction that list as brokerage fee
16:06:30 12 that Amazon is paying to a broker in this example
16:06:34 13 use KBC and its listed in a certain percentage
16:06:38 14 sale would it be fair for the seller to believe
16:06:40 15 that Amazon is paying the amount represented on
16:06:44 16 the settlement statement to that broker?

16:06:46 17 MS. PAPEZ: Objection form foundation.

16:06:50 18 A. I think based on what you're describing I
16:06:51 19 think so.

16:06:52 20 Q. When a.m. purchased its properties from
16:06:55 21 the seller, the seller has to pay brokerage fees
16:07:01 22 in those circumstances?

16:07:01 23 MS. PAPEZ: Objection. Form.

16:07:04 24 A. Yes in most cases I believe that's a case.

16:07:04 25 BY MR. LITTLE:

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16:07:07 1 Q. There's circumstance in that what broker

16:07:09 2 is not taking that entire fee but return ago

16:07:12 3 portion to Amazon without disclosing that to the

16:07:14 4 seller is that proper?

16:07:17 5 MS. PAPEZ: Object to form.

16:07:19 6 A. I think it depends on circumstances and

16:07:23 7 per agreement and relationship is with that seller

16:07:25 8 and frankly -- sorry with that broker but without

16:07:31 9 the details it's hard for me to say it is or it

16:07:35 10 isn't appropriate.

16:07:39 11 Q. You could have an agreement with a broker

16:07:40 12 where the broker does that, right?

16:07:45 13 MS. PAPEZ: Objection. Form.

16:07:46 14 A. I suppose that's true.

16:07:48 15 Q. If the seller doesn't though that is that

16:07:50 16 proper or not?

16:07:50 17 MS. PAPEZ: Objection. Form.

16:07:53 18 A. I think depending on who the seller is it

16:07:58 19 may or may not be appropriate this certain

16:08:00 20 circumstances.

16:08:01 21 BY DEFENSE COUNSEL:

16:08:07 22 Q. Amazon does that and seller beliefs it is

16:08:09 23 paid a certain price certain percentage it learned

16:08:12 24 later that the broker got a reduced percentage and

16:08:15 25 Amazon was able to say save 300,000 dollars inned

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16:08:19 1 course of multi million dollar transaction do you

16:08:24 2 believe that seller has been harmed?

16:08:24 3 MS. PAPEZ: Objection. Form.

16:08:28 4 A. I don't know if the seller has been harmed

16:08:30 5 and I don't know because I don't know what the

16:08:32 6 relationship is with that broker and how many

16:08:35 7 transactions were thought. There could be

16:08:38 8 legitimate reasons that we're doing it and I don't

16:08:41 9 know that what if any harm would have been caused

16:08:44 10 to that seller.

16:08:44 11 Q. I understand there could be again benefits

16:08:47 12 to Amazon in this relationship and what I'm asking

16:08:49 13 is whether you think of any reason that would

16:08:51 14 benefit a seller that it would pay what it

16:08:54 15 believed to be a certain fee to broker then some
16:08:57 16 fees would go back to Amazon as regular basis
16:09:00 17 without a rebate without that transaction being
16:09:03 18 disclosed to seller?

16:09:03 19 MS. PAPEZ: Objection to form.

16:09:12 20 A. I don't know I'm not going to speculate
16:09:14 21 what harm may or may not been caused to that
16:09:17 22 seller.

16:09:18 23 BY DEFENSE COUNSEL:

16:09:18 24 Q. How can you speculate about the harm
16:09:20 25 that's been allegedly cause in the case?

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16:09:25 1 MS. PAPEZ: Object to form misstates
16:09:26 2 testimony.

16:09:26 3 A. To be clear I'm not speculating I'm saying
16:09:30 4 what I have read in the complaint and what we were
16:09:33 5 learned through discovery.

16:09:33 6 BY MR. LITTLE:

16:09:35 7 Q. What is the difference that allows you to
16:09:37 8 say there is harm in this scenario but not to have
16:09:41 9 hypothetical where Amazon is hidings the rebates

16:09:44 10 that it gets from its brokers from sellers on the
16:09:47 11 course of real estate transactions.

16:09:55 12 MS. PAPEZ: Objection. Form.

16:09:55 13 A. I'm talking about specifics you use the
16:09:59 14 word hiding -- I don't know that -- I'm not
16:10:01 15 familiar with it enough and I don't know what I
16:10:03 16 would agree with your term hiding because I don't
16:10:05 17 know the circumstances or the details around this
16:10:07 18 K B B or K B B transaction.

16:10:07 19 BY MR. LITTLE:

16:10:13 20 Q. If Amazon had an agreement where a broker
16:10:16 21 agreed to pay a percentage of its fees on a
16:10:20 22 regular basis to Amazon, fees that it learn earned
16:10:25 23 the course of transactions that it did on behalf
16:10:28 24 of Amazon as a real estate broker and did not
16:10:30 25 disclose those to the seller how would you

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16:10:32 1 describe that arrangement?

16:10:32 2 MS. PAPEZ: Objection. Form.

16:10:38 3 A. Not sure -- I'm not sure how you want me
16:10:41 4 to describe that. Sorry I'm not trying to be
16:10:44 5 difficult I just don't. I'm not sure how to

16:10:47 6 answer the question.

16:10:47 7 BY MR. LITTLE:

16:10:48 8 Q. Would you believe that it would be

16:10:50 9 transparent on Amazon's part vis-a-vis the seller?

16:10:50 10 MS. PAPEZ: Objection. Form.

16:10:56 11 A. The way you have described it, no, I don't

16:11:00 12 know that that's particularly transparent but I

16:11:03 13 also don't though whether that's expected and

16:11:04 14 customary, so it's hard for me to comment.

16:11:04 15 BY MR. LITTLE:

16:11:08 16 Q. So there are circumstance this is which

16:11:15 17 transparency may not be in the the course or real

16:11:19 18 estate fair?

16:11:19 19 MS. PAPEZ: Objection. Form.

16:11:20 20 A. There maybe but in this transaction and

16:11:22 21 this rest we're talking about two employees who

16:11:25 22 are bound by our code of conduct we trust to go

16:11:28 23 act in the best interest of Amazon and who did not

16:11:31 24 disclose they were going to receive money as a

16:11:34 25 result of acquiring these properties.

16:11:34 1 BY MR. LITTLE:

16:11:38 2 Q. Let's drill down to just what you know

16:11:40 3 because as I understand those facts you were told

16:11:43 4 those facts correct?

16:11:44 5 A. I reviewed the facts that were discovered

16:11:47 6 in an investigation presented.

16:11:48 7 Q. But you don't have any first-hand

16:11:51 8 knowledge of any of the facts that you're talking

16:11:53 9 about at this point correct?

16:11:55 10 MS. PAPEZ: O form misstates testimony.

16:11:55 11 BY MR. LITTLE:

16:11:58 12 Q. Do you have any first-hand knowledge of

16:12:00 13 any of things that we're talk about in terms of

16:12:03 14 any of the money that flowing back to Casey or

16:12:07 15 Carl Nelson?

16:12:07 16 A. I did not participate.

16:12:09 17 Q. So you of relying on individuals who did

16:12:11 18 and coming to the conclusions that you are is that

16:12:14 19 fair?

16:12:14 20 MS. PAPEZ: Objection. Form.

16:12:17 21 A. Yes that's fair.

16:12:17 22 BY MR. LITTLE:

16:12:19 23 Q. For example, you understand the

16:12:20 24 transactions that you're describing here a complex

16:12:23 25 transactions involving multiple entities?

16:12:23 1 MS. PAPEZ: Objection. Form.

16:12:27 2 A. That your understanding.

16:12:29 3 A. Yes, that's my understanding.

16:12:32 4 Q. If for example Northstar had a referral
16:12:34 5 arrangement or referral fee with an external party
16:12:39 6 do you know whether or not that would be proper?

16:12:39 7 MS. PAPEZ: Objection. Form.

16:12:47 8 A. It may be proper but I would expect to see
16:12:49 9 it in the disclosure.

16:12:49 10 BY MR. LITTLE:

16:12:51 11 Q. So if there is a disclosure that listed
16:12:53 12 brokerage fees or items of that sort would you
16:12:57 13 have any concerns about that?

16:12:57 14 MS. PAPEZ: Objection. Form.

16:13:04 15 A. If it was disclosed an we were able to
16:13:06 16 have a discussion about it and understand what the
16:13:08 17 fees were for and what services were being provide
16:13:11 18 add why that was in the best interest of Amazon,
16:13:13 19 it may be okay.

16:13:22 20 Q. Is it your understanding that Northstar
16:13:24 21 paid Carl and Casey directly with the deals

16:13:28 22 involving Northstar?

16:13:28 23 MS. PAPEZ: Objection. Form.

16:13:31 24 A. No that's not my understanding.

16:13:33 25 Q.

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16:13:33 1 DEFENSE COUNSEL: What is your understand

16:13:34 2 as to what entities star provided money to.

16:13:39 3 A. There were a number of -- I don't think

16:13:43 4 I'll get them in the right order but I think there

16:13:45 5 were a number of entities and companies ultimately

16:13:50 6 the money passed through. I remember Cheshire

16:13:56 7 something as companies that Carl and or Casey

16:14:02 8 received disbursements from. How that money made

16:14:07 9 its way through there kind of after high level

16:14:11 10 knowledge of based on what I read in the

16:14:14 11 investigation.

16:14:14 12 BY MR. LITTLE:

16:14:15 13 Q. Is it your belief that those -- that money

16:14:19 14 flowed outside the normal course of business?

16:14:19 15 MS. PAPEZ: Objection. Form.

16:14:26 16 A. I would characterize it as outside the

16:14:28 17 normal flow of business because none of this
16:14:31 18 disclosed and it sure seems like people work
16:14:34 19 pretty hard to not disclose to trail of money and
16:14:39 20 where it was going an from where.

16:14:39 21 BY MR. LITTLE:

16:14:41 22 Q. What do you believe was done to work hard
16:14:43 23 to not disclose the trail of money?

16:14:47 24 A. Based on the investigation and the details
16:14:53 25 and the results of that investigation that I read

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16:14:55 1 it seems that various companies were stood up by
16:14:58 2 associates of Casey and Carl for the purpose of
16:15:03 3 receiving money through the Amazon transaction
16:15:07 4 through things like white peaks and Northstar or
16:15:11 5 Villanova, money then made its way to companies
16:15:14 6 that Carl and Casey and their associates -- Carl I
16:15:18 7 think his name was stood up and then made that
16:15:23 8 money accessible to Casey and Carl through various
16:15:27 9 means.

16:15:27 10 Q. If you were mace taken about how and why
16:15:30 11 those entities were created, would you concede
16:15:32 12 that maybe you don't know all the facts?

16:15:32 13 MS. PAPEZ: Objection. Form.

16:15:38 14 A. If somebody came back and said hay we got
16:15:41 15 this wrong this wasn't the way it happened, yeah,
16:15:45 16 I would be open to coming to a different
16:15:47 17 conclusion or sharing the details that I have just
16:15:50 18 shared with you differently. I'm relying on facts
16:15:54 19 that I believe were gathered diligently in this
16:15:57 20 investigation.

16:15:57 21 BY MR. LITTLE:

16:15:58 22 Q. Have you ever spoken to Carl Nelson about
16:16:01 23 these matters?

16:16:01 24 A. Nothing, I have not.

16:16:02 25 Q. Do you know whether anyone at Amazon has

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16:16:05 1 officered -- -- strike that. If I represent today
16:16:07 2 you that Carl has tried since April of 2020 to
16:16:12 3 speak with Amazon about he's matters is that news
16:16:15 4 to you?

16:16:15 5 MS. PAPEZ: Objection. Form.

16:16:18 6 A. It is news to me.

16:16:18 7 BY MR. LITTLE:

16:16:21 8 Q. Does it surprise you to learn now two
16:16:23 9 years into this that Carl has sought through
16:16:26 10 counsel to try to speak to Amazon since April
16:16:29 11 2020?

16:16:29 12 MS. PAPEZ: Objection. Form.

16:16:30 13 A. That's knew information to me.

16:16:30 14 BY MR. LITTLE:

16:16:34 15 Q. Let's turn to white peaks you have
16:16:36 16 references that a few times as one of the entities
16:16:39 17 involved what is your understanding of the white
16:16:42 18 peaks transaction?

16:16:47 19 A. I don't know it would characterize my
16:16:49 20 understanding as a transaction I believe white
16:16:53 21 peaks but one of the entities that money Amazon
16:16:57 22 paid went to that again engaged in some sort of
16:17:01 23 relationship with Carl and Casey and their
16:17:06 24 associates. I'll trying to do from memory I don't
16:17:10 25 remember which transaction is map today what

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16:17:13 1 entity.

16:17:13 2 Q. So if I reported to that white peaks as
16:17:18 3 has do with the two land acquisition I IAD 130,

16:17:22 4 131 would you have any reason to dispute that?

16:17:24 5 A. I would not have a reason.

16:17:26 6 Q. You understand this tier series of lease

16:17:28 7 transactions with star this case involves and then

16:17:31 8 two direct purchase transactions?

16:17:33 9 A. Yes.

16:17:33 10 Q. So we'll take one of those direct

16:17:35 11 purchases transactions that involved an entity

16:17:38 12 called white peaks capital one of defendants in

16:17:41 13 this case. If you want to direction to page 65 of

16:17:44 14 the Exhibit 12 which is document 13?

16:17:53 15 A. Stand by. Page 65 you said.

16:17:56 16 Q. Yes?

16:18:04 17 A. I'm on page 65.

16:18:10 18 Q. If you review perhaps 294 to 298 and see

16:18:13 19 if that refresh your recollection to the

16:18:17 20 allegations in this transaction?

16:18:52 21 A. Okay.

16:18:54 22 Q. This alleged transaction happened December

16:18:57 23 of 2019; is that correct?

16:18:59 24 That was summer

16:19:06 25 MS. PAPEZ: Objection. Form

16:19:07 1 A. In 294 I see in the summer of 2019 is that
16:19:11 2 the one you're referring to.

16:19:12 3 Q. Yes?

16:19:12 4 A. Yes.

16:19:14 5 Q. Carl Nelson was not an employee of Amazon
16:19:18 6 in the summerover 2019?

16:19:22 7 A. He may not have been I don't remember the
16:19:24 8 exact date when Carl left the company. I don't
16:19:28 9 know the circumstances around Carl's separation
16:19:33 10 from the company and I don't know the exact times
16:19:36 11 if you say so okay.

16:19:37 12 Q. If I represented to you it was in early
16:19:41 13 May and early June for this transaction would you
16:19:44 14 have any reason to disdispute that?

16:19:49 15 A. No, sir.

16:19:50 16 Q. Can you explain then how and you can
16:19:53 17 reference this if you wish Amazon has been harmed
16:19:55 18 by the transaction listed here as the white Pete's
16:20:00 19 transaction?

16:20:00 20 MS. PAPEZ: Objection. Form incompleteness?

16:20:12 21 A. Base on the 4 paragraphs I'm reading I
16:20:15 22 don't see reference to Amazon.

16:20:17 23 Q. You can read on and let me clarify you

16:20:20 24 don't have to refer to the complaint at all let me

16:20:22 25 ask you directly thought it might be useful to

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16:20:25 1 refresh your recollection what is your

16:20:25 2 understanding of how Amazon was harmed by the

16:20:29 3 white peek's transaction?

16:20:34 4 A. As I recall and I'm not sure where in this

16:20:36 5 document that is, but the white peaks transactions

16:20:41 6 were unique in that A there was no disclosure of

16:20:48 7 us working with white peeks that I recall and I

16:20:51 8 thinks the misrepresented that this land flip had

16:20:54 9 occurred a year earlier when in fact it occurred

16:20:58 10 and closed in a much shorter time frame than that

16:21:01 11 and those profits then were used again to funnel,

16:21:07 12 feed, kickbacks to some of the folks we talked

16:21:12 13 about in this investigation.

16:21:14 14 Q. That is the most detail you have about

16:21:17 15 that transaction?

16:21:17 16 MS. PAPEZ: Objection. Form.

16:21:20 17 A. From memory.

16:21:24 18 Q. Jaw from memory?

16:21:25 19 A. Yes.

16:21:25 20 Q. So if discovery -- you say that one of
16:21:29 21 issues but a representation of how long the land
16:21:31 22 had been under control is that a question I know
16:21:36 23 just a moment ago correct?

16:21:38 24 A. During the investigation I recall it was
16:21:42 25 pointed out that land was represented as changes

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16:21:46 1 hands in one time frame when it changed hand
16:21:49 2 another time frame.

16:21:50 3 Q. What does it mean for a land to change
16:21:52 4 hands?

16:21:53 5 A. Change owner of record.

16:21:55 6 Q. Okay. So if you are -- so in the course
16:21:59 7 of commercial real estate if an interval take a
16:22:04 8 land under contract and has the ability to control
16:22:06 9 that land you don't believe the property has
16:22:09 10 changed happened at that point?

16:22:09 11 MS. PAPEZ: Objection. Form.

16:22:13 12 A. I guess the way you describe it I would
16:22:15 13 have to agree with that.

16:22:17 14 Q. So if it's common in commercial real

16:22:20 15 estate for folk who work in this area to refer as
16:22:23 16 taking control of the property as the time they
16:22:25 17 have a contract to be able to take control of that
16:22:28 18 property would you have any reason to believe
16:22:30 19 that's unusual?

16:22:30 20 MS. PAPEZ: Objection. Form.

16:22:33 21 A. I don't have any reason to believe that's
16:22:34 22 unusual.

16:22:34 23 BY MR. LITTLE:

16:22:36 24 Q. In fact in commercial real estate there
16:22:37 25 maybe times where contracts extend for a long

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16:22:39 1 period of time due to due diligence before
16:22:47 2 closing?

16:22:47 3 MS. PAPEZ: Objection. Form.

16:22:48 4 A. Okay.

16:22:48 5 Q.

16:22:49 6 BY DEFENSE COUNSEL:

16:22:50 7 Q. You agree with that that a does happen in
16:22:54 8 the commercial real estate?

16:22:55 9 A. I'm going to agree you with because I'm
16:22:58 10 not a real estate transaction manager.

16:23:01 11 Q. Do you know if the people who conducted
16:23:03 12 the investigation that you relied upon had any
16:23:05 13 knowledge about the difference between a closing
16:23:06 14 date for real estate or the date real estate may
16:23:08 15 have gone under contract to be controlled?

16:23:08 16 MS. PAPEZ: Objection. Form.

16:23:12 17 A. I don't know the specific individuals that
16:23:15 18 provided details to the investigators internally
16:23:19 19 but it would surprise me if members of our real
16:23:23 20 estate team either internal or external weren't
16:23:27 21 consulted.

16:23:29 22 Q. That would surprise you, wouldn't it?

16:23:31 23 A. It would surprise.

16:23:33 24 Q. It would surprise you if investigators
16:23:35 25 made such a basic mistake that not understand that

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16:23:38 1 land can be controlled well before a closing date?

16:23:42 2 MS. PAPEZ: Object to form in this states
16:23:44 3 testimony.

16:23:44 4 A. I'm saying that I agree with your
16:23:48 5 statement I guess what I'm trying to say the

16:23:53 6 investigations that I'm familiar with this one and
16:23:54 7 other ones are quite thorough and done by -- they
16:24:00 8 true to include the right skills per speck I was
16:24:04 9 the an do mains so it would surprise me if we
16:24:07 10 didn't engage people who didn't have some sort of
16:24:11 11 subject matter expertise. That's all I'm saying.

16:24:11 12 BY MR. LITTLE:

16:24:15 13 Q. So are you aware that the person who owned
16:24:17 14 the piece of property issued in the white peaks
16:24:21 15 transaction before it was purchased by white peak
16:24:24 16 capital was a man named chuck coon and his company
16:24:28 17 J K moving?

16:24:29 18 A. I think I remember the of reference to
16:24:32 19 that name. Again --

16:24:36 20 Q. And I think you referred in the beginning
16:24:38 21 to this testimony to this transaction being a
16:24:41 22 single day flip; is that correct you referred that
16:24:46 23 some way?

16:24:46 24 MS. PAPEZ: Objection. Form.

16:24:48 25 A. Sorry I think I did say that and from

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16:24:50 1 memory yeah I don't know if it was single day -- I

16:24:52 2 may have said that but I can't be sure on that

16:24:58 3 again doing it from memory.

16:24:58 4 BY MR. LITTLE:

16:25:00 5 Q. What do you mean when you say a single day

16:25:03 6 flip?

16:25:03 7 A. I guess what I'm pointing out is my

16:25:07 8 recollection of going through this sometime ago

16:25:12 9 and I don't know how long it's been but is that

16:25:17 10 there was land that was represented I think I even

16:25:22 11 red it in these paragraphs -- that land was held

16:25:26 12 for one date and then represented as being held

16:25:30 13 for a longer period of time on or about a year, I

16:25:34 14 think and represented to Amazon and others that

16:25:39 15 this land has been held for a while and then in

16:25:43 16 the course of investigation again what I recall

16:25:45 17 and I don't even I'm not even sure how it

16:25:49 18 transpired that the land was not held for a year

16:25:52 19 it was held and flipped within a much shorter

16:25:58 20 period.

16:25:58 21 BY MR. LITTLE:

16:25:58 22 Q. I think you were incorrect if the

16:26:00 23 investigation were incorrect as to the amount of

16:26:02 24 time that the land was controlled by a white peeks

16:26:05 25 capital before it was sold to Amazon would that

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16:26:07 1 change your views about the transaction?

16:26:07 2 MS. PAPEZ: Objection. Form.

16:26:12 3 A. Yeah, it might. It would change my views

16:26:17 4 perhaps on that specific aspect of this

16:26:21 5 investigation. I don't think it wipes the slate

16:26:24 6 clean for all the other things that we have talked

16:26:26 7 about.

16:26:27 8 Q. I understand blue if there's an record in

16:26:29 9 that it might cause you to investigate more

16:26:34 10 thoroughly as a prudent person the other

16:26:35 11 allegation as as well?

16:26:35 12 MS. PAPEZ: Objection. Form.

16:26:38 13 A. Yes it's a fair statement.

16:26:38 14 BY MR. LITTLE:

16:26:40 15 Q. In this case are you aware or new

16:26:43 16 information land at issue was under contract and

16:26:46 17 control by the entity that previously sold it on

16:26:48 18 that day to Amazon for 6 months or more?

16:26:52 19 MS. PAPEZ: Objection. Form.

16:26:59 20 A. Can you restate the question part of that.

16:27:01 21 Q. Were you aware or is it new information

16:27:03 22 that the entity that was involved in this
16:27:05 23 transaction of white peeks capital had the land
16:27:08 24 under control for 6 months or more?
16:27:08 25 MS. PAPEZ: Objection. Form.

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16:27:11 1 A. Its new information in the sense that I
16:27:19 2 don't recall 6 months being a time frame.
16:27:19 3 BY MR. LITTLE:
16:27:23 4 Q. Certainly 6 months is longer than a day?
16:27:25 5 A. Yes.
16:27:26 6 Q. If there are individuals who are engaged
16:27:29 7 that that land sale including the individual who
16:27:33 8 owned the property who stated the price what
16:27:35 9 Amazon bought it for was below market price would
16:27:38 10 that change your view as to propriety of this
16:27:49 11 transaction?
16:27:52 12 MS. PAPEZ: I think for the court reporter
16:27:54 13 for all our sakes could you please let Chris
16:27:56 14 finish this is I think I let it go a couple of
16:27:59 15 times but just let him finish let's try to
16:28:02 16 organize this a little bit more because couple of
16:28:04 17 times is forgivable but I think its too much.

16:28:08 18 Thanks.

16:28:08 19 BY MR. LITTLE:

16:28:11 20 Q. If you can restate the question I'll

16:28:13 21 certainly answer best I can?

16:28:15 22 BY MR. LITTLE:

16:28:16 23 Q. I'm going to go a different way were you

16:28:18 24 aware that your legal team at AWS had an of the

16:28:23 25 appropriate information as in the exact amount of

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16:28:26 1 time that land had been held under control by the

16:28:28 2 previous contract holder at the time this

16:28:30 3 transaction was undertaken?

16:28:35 4 MS. PAPEZ: Objection form foundation.

16:28:36 5 A. I'm not a ware of detailses of what our

16:28:40 6 legal team had and didn't have.

16:28:40 7 BY MR. LITTLE:

16:28:42 8 Q. In the CAR itself included information

16:28:43 9 about the prior transactions and the prior

16:28:46 10 purchase price would that lead you to believe this

16:28:51 11 information was being hidden as you previously

16:28:53 12 described your beliefs?

16:28:56 13 MS. PAPEZ: Objection. Form?

16:28:57 14 BY DEFENSE COUNSEL:

16:28:58 15 Q. Or would you come to another conclusion?

16:29:00 16 MS. PAPEZ: Objection. Form misstates

16:29:03 17 testimony?

16:29:03 18 Q. I think what I'm trying to articulate is

16:29:06 19 that if all of these transactions that are -- that

16:29:11 20 build up to the cost that Amazon pays are fully

16:29:15 21 disclosed and transparent so we can have a

16:29:17 22 discussion about it and make an informed decision

16:29:20 23 about whether we're okay paying for that or we

16:29:23 24 think that's appropriate if everything is out in

16:29:25 25 the open and we can have a conversation about it

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16:29:28 1 then I'm less concerned?

16:29:28 2 BY MR. LITTLE:

16:29:30 3 Q. Purchase price that someone pays for a

16:29:32 4 piece of real estate is out in the open generally,

16:29:34 5 is it not?

16:29:35 6 MS. PAPEZ: Objection. Form.

16:29:37 7 A. Based on some of the prior conversation

16:29:43 8 when you record a transaction it's recorded and

16:29:46 9 accessible.

16:29:48 10 Q. Getting to ask the question of what is the
16:29:50 11 quantity of harm in the white makes transaction to
16:29:56 12 Amazon?

16:29:58 13 MS. PAPEZ: Objection. Form.

16:30:01 14 A. I don't know the exact point of the
16:30:03 15 monetary harm.

16:30:03 16 BY MR. LITTLE:

16:30:04 17 Q. How would you calculate it?

16:30:04 18 MS. PAPEZ: Objection. Form.

16:30:08 19 A. Again I'm not sure if we go back to the
16:30:16 20 CAR example I would start what would it cost to
16:30:19 21 buy out right and what are a mark ups and who is
16:30:21 22 taking what off the top.

16:30:21 23 BY MR. LITTLE:

16:30:24 24 Q. At the time of this transaction Mr. Nelson
16:30:28 25 did know work at Amazon if he did not work at

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16:30:31 1 Amazon at the time what obligations does he have
16:30:33 2 to not work for example the seller or buyer case
16:30:37 3 the seller in this case?

16:30:37 4 MS. PAPEZ: Objection. Form.

16:30:42 5 A. I want to make sure we get the time frame
16:30:46 6 right this says on or about July 2019.

16:30:51 7 MR. LITTLE: July 30th is the date in
16:30:53 8 paragraph 296.

16:30:54 9 A. Can recall was an employee through May and
16:30:57 10 June of 2019.

16:30:58 11 Q. I think the last day was June 11th we'll
16:31:01 12 still e stipulate that for now?

16:31:05 13 MS. PAPEZ: Please let him finish and Lee
16:31:08 14 let's try to keep some space.

16:31:11 15 A. Hear's where I'm going with that, these
16:31:14 16 transactions doesn't get done. If you don't do
16:31:17 17 does diligence in in matter of few weeks or days
16:31:21 18 the due diligence would have started while Carl
16:31:23 19 was still an employee of Amazon which means these
16:31:27 20 transactions these propertys were in our pipeline
16:31:30 21 and we were gathering data on them while he was
16:31:32 22 still employed at Amazon.

16:31:34 23 Q. Do you have any reason to believe that
16:31:35 24 Carl had any knowledge of white peak's desire to
16:31:40 25 purchase this property while he was at Amazon?

16:31:40 1 MS. PAPEZ: Objection. Form.

16:31:46 2 A. I don't know what Carl desired or not.

16:31:46 3 BY MR. LITTLE:

16:31:49 4 Q. Do you have any reason to believe that

16:31:50 5 Carl had information that white peeks but

16:31:54 6 intending -- let me restate that do you have any

16:31:57 7 information that leads you to believe that Carl

16:32:00 8 intended to be involved in this transaction when

16:32:02 9 he was at Amazon?

16:32:10 10 MS. PAPEZ: Objection. Form.

16:32:11 11 A. I don't have any first-hand knowledge --

16:32:15 12 Q. Are you aware?

16:32:18 13 MS. PAPEZ: Please let the witness finish

16:32:19 14 his answer. Thank you.

16:32:25 15 A. I don't have firsthand information and I

16:32:27 16 don't know if Carl was aware or not.

16:32:29 17 BY GOVERNMENT COUNSEL:

16:32:30 18 Q. If there were no such evidence that Carl

16:32:32 19 was aware would that mitigate your concern about

16:32:35 20 the due diligence point you have just raised?

16:32:35 21 MS. PAPEZ: Objection. Form.

16:32:42 22 A. Not necessarily. Again its about

16:32:48 23 transparency and disclose your and we need to see

16:32:52 24 the facts.

16:32:52 25 BY MR. LITTLE:

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16:32:54 1 Q. So walk through that just to kind of
16:32:56 2 walking through this point if an entity called
16:32:59 3 white peaks capital controlled by Kyle Ramstetter
16:33:03 4 buys a piece of property and marks to multiple
16:33:06 5 people one of whom is Amazon understand and at
16:33:10 6 some point in time after Carl leaves Amazon he
16:33:13 7 attempts to work with white peaks capital doesn't
16:33:17 8 actually end up doing so. In that scenario has
16:33:23 9 Carl done anything wrong?

16:33:25 10 MS. PAPEZ: Objection. Form.

16:33:29 11 A. I don't want to speculate the way you have
16:33:33 12 described it probably not.

16:33:33 13 BY MR. LITTLE:

16:33:35 14 Q. There maybe other factors that you have to
16:33:38 15 identify them that could be problematic is that
16:33:42 16 fair?

16:33:42 17 MS. PAPEZ: Objection. Form.

16:33:44 18 A. Yes that's fair.

16:33:44 19 BY MR. LITTLE:

16:33:50 20 Q. Do you think it's possible if Amazon's
16:33:52 21 investigation were incorrect about how the
16:33:54 22 transaction -- the W P transaction occurred it may
16:33:59 23 have made a general mistake like it made with
16:34:01 24 wrong employment contract?
16:34:06 25 MS. PAPEZ: Objection. Form.

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16:34:08 1 A. Yes there's potential for mistakes to be
16:34:12 2 made but I think in this case there's been a
16:34:15 3 pretty -- as it's been relaid to me through some
16:34:19 4 of the documents that I have reviewed it looks to
16:34:22 5 be a pretty thorough investigation here different
16:34:25 6 from asking a level employee somewhere deep in the
16:34:30 7 organization of a million and a half people for a
16:34:32 8 contract on one individual named Carl Nelson. I
16:34:36 9 think it's a little different in its complexity.
16:34:36 10 BY MR. LITTLE:

16:34:40 11 Q. You don't think a complex investigation
16:34:42 12 like this could make mistakes of a greater nature?

16:34:42 13 MS. PAPEZ: Objection. Form.

16:34:49 14 A. I think any human process has the
16:34:51 15 potential for maybe for some mistakes. So I'm

16:34:55 16 never going to say never on something like that.

16:34:55 17 BY MR. LITTLE:

16:34:59 18 Q. And again I have never talked to Carl

16:35:01 19 about any of these things and heard his point of

16:35:04 20 view have you?

16:35:07 21 MS. PAPEZ: Object to form asked and

16:35:08 22 answered.

16:35:08 23 A. I have not spoken to Carl about any to

16:35:11 24 have this.

16:35:11 25 BY MR. LITTLE:

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16:35:12 1 Q. Have you spoken to Casey about any of

16:35:14 2 this?

16:35:15 3 MS. PAPEZ: Objection. Form.

16:35:16 4 A. No, I have not spoken to Casey about any

16:35:19 5 of this is.

16:35:19 6 BY MR. LITTLE:

16:35:21 7 Q. Are you aware that the main informant that

16:35:23 8 your company has relied on in its kiln case as

16:35:26 9 pled guilty to federal charges?

16:35:26 10 MS. PAPEZ: Objection. Form.

16:35:31 11 A. No I'm not -- I'm not aware of details

16:35:37 12 around that.

16:35:37 13 BY MR. LITTLE:

16:35:42 14 Q. We don't need to restate that Casey and

16:35:44 15 Carl have not been charged so we won't go there.

16:35:47 16 Continue on this scheme of harm because obviously

16:35:50 17 its important you understand that -- this is a

16:35:56 18 part where I'm going to get into the A E O

16:35:59 19 documents so if Mr. Watson and Mr. Kirschner need

16:36:02 20 to drop off now is the time.

16:36:06 21 MR. WATSON: This is Brian Watson. I can

16:36:13 22 drop off and if my counsel will just text me when

16:36:13 23 I can come back on, I would appreciate it. Thank

16:36:15 24 you.

16:36:15 25 MS. BODNER: Yes, I will, Brian.

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16:36:15 1 BY MR. LITTLE:

16:36:18 2 Q. Let me ask before we get to that part,

16:36:21 3 have you met with anyone from the FBI in

16:36:23 4 connection with the investigation that was started

16:36:25 5 at Amazon?

16:36:25 6 MS. PAPEZ: Objection. Form.

16:36:27 7 A. Yes, I have.

16:36:27 8 BY MR. LITTLE:

16:36:29 9 Q. Where was that?

16:36:29 10 MS. PAPEZ: Objection. Form.

16:36:32 11 A. It was via video conference. I was at
16:36:35 12 home.

16:36:35 13 BY MR. LITTLE:

16:36:36 14 Q. Did you have a lawyer there with you?

16:36:43 15 Q. Was there a lawyer present on the video
16:36:45 16 conference besides the FBI?

16:36:47 17 A. Yes, I -- yes, there was I'm not sure who
16:36:53 18 all the people were but I do believe Amazon and
16:36:56 19 certainly internal counsel were represented on
16:36:58 20 that call.

16:36:59 21 A. Were there external counsel on the call as
16:37:02 22 well.

16:37:02 23 Q. I don't recall?

16:37:03 24 Q. Do you recall who they spoke with?

16:37:07 25 A. No, I don't remember the names.

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16:37:09 1 Q. I told you the name Josh Huckle would that

16:37:12 2 as to one of the individuals that you spoke with?

16:37:15 3 A. No, it doesn't.

16:37:19 4 Q. The person you speak with represent

16:37:21 5 himself or herself to be with the FBI?

16:37:25 6 A. Yes.

16:37:25 7 Q. Okay. What were the topics to that have

16:37:33 8 conversation?

16:37:33 9 MS. PAPEZ: Objection. Form.

16:37:38 10 A. Topicing were pretty high level as I

16:37:40 11 recall it was basically about me what is my

16:37:43 12 position in the company what is my role. What are

16:37:46 13 am I responsible for secondary I can't was really

16:37:56 14 around the CAR process tell me about the CAR

16:37:58 15 process kind of questions.

16:38:06 16 A. There may have been only questions about

16:38:08 17 policies and things like that that govern the CAR

16:38:11 18 processes.

16:38:12 19 Q. Do you recall any questions about Casey

16:38:17 20 Kirschner or Carl Nelson?

16:38:18 21 A. I don't recall any questions about them.

16:38:20 22 Q. Do you recall raising any concerns about

16:38:22 23 the behavior of Carl Nelson or Casey Kirschner in

16:38:26 24 that conversation with the FBI?

16:38:28 25 A. No, I don't. One correction if I may the

16:38:35 1 last question the only reference I can recall
16:38:42 2 about Casey and Carl I believe there were some CAR
16:38:44 3 documents shown kind of like what you showed me
16:38:47 4 earlier with e-mail distributions. I'm not 100
16:38:50 5 percent sure but I think there were some names
16:38:52 6 there annual Casey and Carl's name may have been
16:38:54 7 on some of those documents as he was asking about
16:38:57 8 the CAR process. I don't want to represent it as
16:39:00 9 there was no discussion some of these artifacts
16:39:06 10 had our name on them.

16:39:06 11 BY MR. LITTLE:

16:39:07 12 Q. If you were asked any question that over
16:39:09 13 lapped the questions that you were asked here
16:39:11 14 today do you remember your answers to be
16:39:12 15 consistent with the testimony you have given in
16:39:15 16 this deposition?

16:39:15 17 MS. PAPEZ: Objection. Form.

16:39:20 18 A. Given that our conversations were mostly
16:39:22 19 about the process I'm pretty sure my testimony
16:39:25 20 would have been consistent with that conversation.

16:39:25 21 BY MR. LITTLE:

16:39:34 22 Q.

16:39:34 23 GOVERNMENT COUNSEL: Chris go ahead and

16:39:36 24 finish.

16:39:36 25 A. I kind of -- I was finished then I jumped

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16:39:39 1 back in so to the best of my recollection the I

16:39:43 2 have given you consistent testimony mainly and

16:39:46 3 again the overlap appears to be around the CAR

16:39:49 4 process.

16:39:49 5 Q. That's all I'm asking about were there any

16:39:51 6 documents that you requested that provided that?

16:39:51 7 MS. PAPEZ: Objection. Form.

16:39:59 8 A. No.

16:39:59 9 BY MR. LITTLE:

16:40:03 10 Q. You have not testified in any federal

16:40:05 11 grand jury have you?

16:40:05 12 MS. PAPEZ: Objection. Form.

16:40:10 13 A. No. I have not.

16:40:10 14 BY MR. LITTLE:

16:40:11 15 Q. Are you aware of any Amazon employee

16:40:13 16 testifying before the grand jury?

16:40:16 17 MS. PAPEZ: Objection. Form.

16:40:17 18 A. No, I am not.

16:40:19 19 Q. I apologize I I think we're going to turn
16:40:39 20 to the A E O document?

16:40:42 21 MS. PAPEZ: Just for the record this is an
16:40:44 22 AEO document that is within the ambit of the
16:40:47 23 agreement for Mr. Nelson.

16:40:51 24 MR. LITTLE: That's correct.

16:40:51 25 MS. PAPEZ: Is he privy to.

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16:40:54 1 MR. LITTLE: We state on the record we
16:40:54 2 don't think there's any basis this BAE0 and his
16:40:56 3 AEO becasue Amazon and IPI agreed to during the
16:41:00 4 course of this litigation which I think an
16:41:01 5 improper designation. Nonetheless we don't have
16:41:03 6 an objection at present to using this fashion
16:41:06 7 because Mr. Nelson is allowed to see it.

16:41:09 8 MS. PAPEZ: Pursuant to tour agreement and
16:41:11 9 reserving all our objections including the one you
16:41:14 10 just challenged thank you Alex.

16:41:14 11 BY MR. LITTLE:

16:41:19 12 Q. You should see document 14 on your screen.

16:41:25 13 I apologize this one is one page short. I'm not

16:41:31 14 going to not use that exhibit. We'll show you --

16:41:48 15 okay?

16:41:51 16 Q. On document 14 that's going to be marked

16:41:54 17 CV 13?

16:42:00 18 (Exhibit 13 was marked.)

16:42:01 19 BY MR. LITTLE:

16:42:02 20 Q. Do you recognize this document?

16:42:03 21 A. Yes what is it.

16:42:04 22 A. Just double checking -- yes, I recognize

16:42:11 23 the document. This is I understand this is a

16:42:14 24 document that Amazon negotiated with a company

16:42:21 25 called IPI to accomplish a couple of things one,

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16:42:28 1 secure the properties that had been developed an

16:42:31 2 occupied by Amazon specifically things that we put

16:42:40 3 server as are thousand running data through and

16:42:42 4 one of objective was to make sure that in spite of

16:42:47 5 all these proceedings that we were going to be

16:42:50 6 able to retain the use of those assets an make

16:42:52 7 sure that we had business continuity no matter

16:42:55 8 what the outcome of these proceedings that was

16:42:58 9 kind of objective one as I understand it with this
16:43:01 10 agreement and objective two was to renegotiate
16:43:09 11 some of rates and money that Amazon was going to
16:43:11 12 pay for use of those facilities going forward as
16:43:15 13 well as recouping some of the money that we felt
16:43:18 14 that we had over paid in the past prior to this
16:43:22 15 renegotiation occurring.

16:43:26 16 Q. You testified that Amazon negotiated this
16:43:28 17 document who negotiated this document
16:43:30 18 specifically?

16:43:34 19 A. I don't know the individuals that
16:43:35 20 negotiated this specific document.

16:43:37 21 Q. Did you negotiate this document yourself?

16:43:39 22 A. IPI.

16:43:45 23 Q. Did Dennis Wallace part in the no
16:43:48 24 objection of this document?

16:43:49 25 MS. PAPEZ: I'm going to object but you

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16:43:51 1 can go ahead and answer the question the factual
16:43:53 2 question whether Dennis negotiated the document
16:43:56 3 I'm going to instruct you not to get into any
16:43:58 4 communications with Dennis around the agreement

16:44:01 5 and Adam pursuant to our discussions today about
16:44:06 6 the on going privilege.

16:44:06 7 BY MR. LITTLE:

16:44:08 8 Q. My question was whether Dennis Wallace
16:44:12 9 participate on the negotiation of this document
16:44:14 10 did he?

16:44:14 11 A. I don't know.

16:44:15 12 Q. Do you know anyone who participated in the
16:44:18 13 no objection of this document?

16:44:26 14 A. I don't know the names of folks who
16:44:28 15 negotiated this document.

16:44:28 16 Q. Do you know the titles or positions of the
16:44:31 17 folks who negotiated in document?

16:44:33 18 A. No, I do not.

16:44:33 19 Q. Where did this document come from to the
16:44:36 20 best of your knowledge?

16:44:39 21 MS. PAPEZ: Object to form.

16:44:41 22 A. It was negotiated by the appropriate
16:44:44 23 people at Amazon who is names I don't know because
16:44:47 24 I don't know who was involved it was probably more
16:44:49 25 than one person and negotiated on behalf of Amazon

16:44:53 1 by a group of Amazon employees.

16:44:56 2 Q. You can't name a single one of those

16:44:59 3 Amazon employees who negotiated this document on

16:45:02 4 the company's behalf?

16:45:03 5 A. I cannot.

16:45:05 6 MR. LITTLE: So I put on record that we're

16:45:07 7 certainly entitled to dispose Mr. Wallace about

16:45:11 8 that request and for Amazon should have had

16:45:13 9 provide us back in December when its disclose

16:45:16 10 yours were due individuals whom be able to testify

16:45:20 11 about a document that you're asorting proves

16:45:23 12 damage.

16:45:23 13 MS. PAPEZ: I'll respond and remind you

16:45:25 14 that Mr. Wallace is under an active protective

16:45:28 15 order from the court that hasn't changed so we

16:45:31 16 reserve all right as objections but you appreciate

16:45:33 17 your express on the record.

16:45:36 18 MR. LITTLE: We intend to object to

16:45:38 19 misrepresented to the court what was accurate. So

16:45:42 20 with can deal with that at the appropriate time.

16:45:45 21 MS. PAPEZ: I respect your objections

16:45:47 22 you're free to pursue them. We misrepresented

16:45:51 23 nothing we object at reserve all rights.

16:45:51 24 BY MR. LITTLE:

16:45:55 25 Q. What is the extent of your knowledge about

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16:45:56 1 the contents of this document?

16:46:01 2 A. My knowledge of this document is based on
16:46:04 3 what I have read and reviewed when I was asked to
16:46:06 4 sign this on behalf of Amazon and the work that
16:46:10 5 that they did to negotiate the settlement.

16:46:15 6 Q. Who asked tow sign this document?

16:46:21 7 MS. PAPEZ: Objection. Form.

16:46:24 8 A. Amazon legal counsel.

16:46:25 9 Q. Is that a person this particular?

16:46:27 10 A. It came to me a Docusign I don't know that
16:46:30 11 an individual said go sign this. I consulted with
16:46:36 12 members of Amazon counsel on things I was expected
16:46:38 13 do and I got a heads up there was coming and I
16:46:41 14 read through it and I signed it.

16:46:42 15 Q. Can you name the Amazon counsel who told
16:46:45 16 you they were going to expect you to sign this
16:46:47 17 document?

16:46:49 18 MS. PAPEZ: Objection asked and answered
16:46:50 19 and Chris if you know and you want to answer you
16:46:53 20 can say this name I instruct you not to get into

16:46:55 21 any communications with counsel around this

16:46:58 22 document.

16:46:58 23 A. One of the persons but Dennis Wallace who

16:47:03 24 has been keeping me informed and advising as

16:47:07 25 member of counsel.

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16:47:08 1 Q. Were you provided any summarys or

16:47:10 2 information to give context to this document other

16:47:12 3 than the document itself by anyone at AWS?

16:47:12 4 MS. PAPEZ: Objection. Form.

16:47:20 5 A. Very little context only that it was

16:47:23 6 coming, I needed to read through it it was relate

16:47:28 7 today this case.

16:47:28 8 Q. Have you seen any drafts of this document?

16:47:28 9 MS. PAPEZ: Objection. Form.

16:47:35 10 A. I don't recall ever seeing a draft.

16:47:35 11 BY MR. LITTLE:

16:47:37 12 Q. You understand that your company has

16:47:38 13 refused to allow Dennis Wallace to be deposed

16:47:43 14 about this document and others?

16:47:47 15 MS. PAPEZ: Object to form foundation.

16:47:48 16 A. Only because you just said so.

16:47:48 17 BY MR. LITTLE:

16:47:53 18 Q. Does that surprise you?

16:47:53 19 MS. PAPEZ: Objection. Form.

16:47:57 20 A. Not particularly. No because I'm not sure

16:48:01 21 what the rules of the road here are.

16:48:01 22 BY MR. LITTLE:

16:48:04 23 Q. Understood. Can I turn your attention to

16:48:11 24 page?

16:48:25 25 MS. PAPEZ: I'm sorry Alex can I ask for

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16:48:27 1 clarification on your comment that the page

16:48:30 2 numbers of document have changed.

16:48:32 3 MR. LITTLE: No no to we had one document

16:48:34 4 we upload and used with Mr. Clean that was only --

16:48:38 5 did not include the final signature page it

16:48:41 6 included and this one includes the final signature

16:48:44 7 page with the signature by Mr. Vonderhaar the

16:48:46 8 prior one Mr. Client did not sign and we were

16:48:50 9 asking questions about the content so the final

16:48:54 10 signature page wasn't relevant.

16:48:54 11 BY MR. LITTLE:

16:48:57 12 Q. I believe its page 5 Mr. Vonderhaar can

16:48:59 13 you turn your attention there?

16:49:01 14 A. Yes, sir I'm there.

16:49:02 15 Q. Could you read into the record page 5 --

16:49:07 16 paragraph 5 on page 5?

16:49:10 17 A. Paragraph 5 page 5 advise of independent

16:49:14 18 counsel.

16:49:14 19 Q. That's correct?

16:49:16 20 A. Par fees agree that term of this agreement

16:49:18 21 in the amended agreements were negotiated in arms

16:49:23 22 length and in good faith by the parties and renext

16:49:25 23 a settlement that was reached voluntarily after

16:49:28 24 consultation of experienced legal counsel.

16:49:31 25 Q. Are you aware who any of the individuals

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16:49:34 1 referenced -- are you aware of any of the

16:49:36 2 individuals who negotiated this contract at

16:49:40 3 arm's-length are who are not lawyers?

16:49:40 4 MS. PAPEZ: Objection. Form.

16:49:45 5 A. No.

16:49:45 6 BY MR. LITTLE:

16:49:48 7 Q. Who would know besides you if anyone.

16:49:55 8 A. Whoever the parties were at Amazon that

16:49:58 9 negotiated this settlement -- that directly

16:50:02 10 negotiated the settlement.

16:50:03 11 Q. Do you believe that information would be

16:50:05 12 documented somewhere in a document or a pository

16:50:07 13 of documents?

16:50:07 14 MS. PAPEZ: Objection. Form.

16:50:13 15 A. I don't know. Seems reasonable but I

16:50:18 16 don't know.

16:50:18 17 BY MR. LITTLE:

16:50:22 18 Q. Okay. I appreciate that. I'm going to

16:50:25 19 turn your your tension thousand sort of walk

16:50:27 20 through a few of these things. Turn your

16:50:33 21 attention to page 3?

16:50:35 22 A. Okay I'm there.

16:50:36 23 Q. Deuce paragraph B 1 original leases?

16:50:41 24 A. Yes, sir.

16:50:42 25 Q. Could you please read that paragraph to

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16:50:46 1 yourself I'm going to ask you a question about it.

16:51:22 2 A. Okay I read it.

16:51:23 3 Q. Were you aware that the purchase please
16:51:25 4 for the quail ridge property was set in this
16:51:29 5 settlement agreement?

16:51:33 6 MS. PAPEZ: Object to form foundation.

16:51:37 7 A. I'm only aware because of what I read.

16:51:37 8 BY MR. LITTLE:

16:51:39 9 Q. Prior to first seeing this document were
16:51:41 10 you aware that Amazon was going to buy the quail
16:51:46 11 ridge property for 145 million dollars as
16:51:49 12 indicated in paragraph B 1?

16:51:49 13 MS. PAPEZ: Objection. Form.

16:51:57 14 A. Prior to reviewing the settlement no I was
16:51:59 15 not.

16:51:59 16 BY MR. LITTLE:

16:52:00 17 Q. Do you know how the number was calculated
16:52:02 18 the purchase price?

16:52:02 19 MS. PAPEZ: Objection. Form.

16:52:04 20 A. No, I don't.

16:52:04 21 Q.

16:52:06 22 DEFENSE COUNSEL 1: Do you know who at
16:52:07 23 Amazon may have been involved in calculating that
16:52:09 24 purchase price.

16:52:10 25 A. No, I don't. No specifics no.

16:52:13 1 Q. Do you know whether this was a transaction
16:52:15 2 that you approved in terms of capital expenditure?

16:52:15 3 MS. PAPEZ: Objection. Form.

16:52:22 4 A. I don't recall if there was a CAR for this
16:52:26 5 one but if it was a capital expenditure it would
16:52:30 6 have come through the process -- I think it's
16:52:32 7 reasonable to assume it would have come across
16:52:36 8 my desk.

16:52:36 9 BY MR. LITTLE:

16:52:40 10 Q. I'm going to turn your attention to K K
16:52:44 11 08 its document 15. Given that you only cursory
16:52:48 12 knowledge of that document I'm not going to spend
16:52:50 13 much time walking you through it I apologize for
16:52:53 14 the delay but if you could tell me when document
16:52:55 15 15 exhibit K K 08 is on the screen?

16:52:58 16 A. I have it up.

16:53:01 17 Q. Can you please read to yourself pages one
16:53:03 18 or two which is the text of other pages of this
16:53:06 19 extraneous use web artifacts?

16:53:08 20 A. Will do. Stand by okay.

16:54:23 21 Q. Are you generally aware of the
16:54:25 22 transactions detailed in this news article?

16:54:27 23 A. I read ages 1 and 2 that was the
16:54:30 24 instructions.

16:54:31 25 Q. That's all there is. You get 6 payment of

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16:54:34 1 blank stuff. Describe to you what this is but the
16:54:39 2 news article are you aware of the transactions
16:54:42 3 that are reported on this article?

16:54:45 4 A. Objection to form.

16:54:47 5 A. I am aware of the Quail Ridge acquisition
16:54:52 6 settlement agreement I wasn't aware of the sale
16:54:58 7 transaction.

16:54:59 8 Q. So the sale transaction to be clear a
16:55:02 9 transaction where Amazon sold property this prince
16:55:04 10 William property that it owned to IPI; is that
16:55:04 11 correct?

16:55:04 12 MS. PAREZ: Objection. Form.

16:55:13 13 A. Yes.

16:55:14 14 Q. Are you or any other transactions in your
16:55:18 15 time at AWS where Amazon had sold property for
16:55:19 16 data center construction to a developer?

16:55:25 17 MS. PAREZ: Objection to form.

16:55:25 18 A. I can't point to a specific transaction at

16:55:30 19 different points in time that overdue
16:55:35 20 transactions. Yes. If our business changes we
16:55:37 21 may be able to sell that land but this is that
16:55:42 22 first specific thing that I see.
16:55:45 23 Q. Were you involved in the approval of
16:55:48 24 selling that land to IPI?
16:55:54 25 MS. PAPEZ: Objection. Form.

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16:55:55 1 A. I don't recall approving or reviewing the
16:55:57 2 sale.
16:55:57 3 BY MR. LITTLE:
16:56:00 4 Q. Amazon how did AWS go about telling the
16:56:05 5 appropriate please to tell sell the piece of real
16:56:09 6 estate?
16:56:09 7 MS. PAPEZ: Objection. Form.
16:56:12 8 A. I don't want to speculate you would have
16:56:17 9 to ask some of our real estate transaction manager
16:56:21 10 finance folks for the exact way they occur.
16:56:24 11 Q. To be clear has it ever happened before
16:56:28 12 this transaction where Amazon has sold property to
16:56:30 13 a developer?

16:56:39 14 MS. PAPEZ: Objection. Form.

16:56:39 15 A. No I can't recall.

16:56:41 16 Q. Fair to say its likely not a detailed
16:56:42 17 process for setting pricing in such a scenario?

16:56:50 18 MS. PAPEZ: Objection. Form misstates
16:56:53 19 testimony?

16:56:53 20 A. I can't recall that doesn't mean it hasn't
16:56:56 21 happened.

16:56:56 22 Q. If transaction manager involved in the
16:56:59 23 sale were to tell you that he priced the value of
16:57:04 24 property at the low end of comparables does that
16:57:08 25 concern me?

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16:57:15 1 MS. PAPEZ: Object to form.

16:57:16 2 A. It not why that was this have best
16:57:19 3 interest of Amazon.

16:57:20 4 Q. Sitting here today can you think of a
16:57:22 5 reason why selling the property to Amazon own at
16:57:25 6 the low end of comparables would be beneficial to
16:57:29 7 Amazon?

16:57:31 8 MS. PAPEZ: Objection. Form?

16:57:36 9 A. Not off the top of my head I don't know

16:57:39 10 the details.

16:58:10 11 Q. You know we've been going a while now. I

16:58:18 12 think you said you were not aware of the

16:58:19 13 circumstance of Carl's termination, correct?

16:58:23 14 A. Yes, that's correct.

16:58:32 15 Q. Pull up CV 14 on my is the exhibit that's

16:58:39 16 do you to interview from the bottom think it goes

16:58:42 17 up that way probably the's east I'm going to be

16:58:47 18 asking you about an e-mail that stars a May 24

16:58:49 19 from KB oaks -- this is exhibit C V 14 that will

16:59:02 20 show up on the witness's screen as document 16?

16:59:07 21 (Exhibit 14 was marked.)

16:59:12 22 A. You want me to read from that one up.

16:59:17 23 Q. Just the May e-mail?

16:59:40 24 A. Written in KB yolk every within AWS H R?

16:59:44 25 A. Yes.

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16:59:45 1 Q. Who is KD oaks if you know?

16:59:52 2 A. I believe KD was one our partners.

16:59:52 3 Q. Does it indicate here onb May 24th that

16:59:57 4 you suggested to others that Chris should be

16:59:57 5 involved ASAP?

16:59:57 6 MS. PAPEZ: Objection. Form.

17:00:02 7 A. Yes, that's what I read.

17:00:05 8 A. Yes.

17:00:05 9 Q. Based on this e-mail do you think it's

17:00:08 10 possible that if they discussed this matter with

17:00:09 11 you -- based on this e-mail what is your

17:00:12 12 assumption as to what happened after this e-mail

17:00:14 13 was sent?

17:00:14 14 MS. PAPEZ: Objection. Form.

17:00:17 15 A. As I recall I did get a heads up verbally

17:00:21 16 that there was some discussion and perhaps

17:00:27 17 investigation going on with Carl and if and when

17:00:29 18 they needed to share the details with me they

17:00:35 19 would and that is essentially the amount of

17:00:38 20 communication I had and then from there process

17:00:46 21 took place and I don't recall ever being presented

17:00:48 22 with. So documents that you referenced.

17:00:50 23 Q. You don't understand he was terminated for

17:00:52 24 matters separate from the present case?

17:00:52 25 MS. PAPEZ: Objection. Form.

17:00:57 1 A. Yeah, I don't know the details of why he
17:01:00 2 was terminated. I have come to find out through
17:01:04 3 this he was terminate bud it's not relate today
17:01:07 4 this case.

17:01:08 5 Q. And you have no recollection as to any
17:01:10 6 conversation about that at that time back in May
17:01:11 7 of 2019?

17:01:11 8 MS. PAPEZ: Objection. Form.

17:01:17 9 A. Correct.

17:01:17 10 BY MR. LITTLE:

17:01:24 11 Q. Would you have had to approve Mr. Nelson's
17:01:28 12 termination?

17:01:28 13 MS. PAPEZ: Objection. Form.

17:01:36 14 A. In the case I don't believe to because at
17:01:39 15 the time Carl was working for Khozem am I believe
17:01:43 16 Khozem and the team handled this.

17:01:44 17 Q. By handled you mean Khozem would have
17:01:47 18 approved the termination?

17:01:48 19 A. Khozem and our H R VPs -- well it's hard
17:01:53 20 for me to say Khozem would have received the
17:01:56 21 details depend of nature of investigation an
17:01:58 22 whether he had a need to know he may have been
17:02:05 23 present and may have been involved this approving
17:02:07 24 this. I don't know what the specific details were
17:02:09 25 there could be some circumstances where Khozem and

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17:02:12 1 I don't have a say.

17:02:20 2 DEFENSE COUNSEL 1: I think at this point I
17:02:22 3 think it's a good time to take a break not with
17:02:26 4 standing the fact that we do want to hold the
17:02:28 5 deposition open to be able to ask questions about
17:02:31 6 documents we have not yet receive and we'll save
17:02:33 7 that question for a laider date and I think I may
17:02:36 8 be able to conclude here ask a final questions its
17:02:41 9 5:15.

17:02:43 10 MS. PAPEZ: Just to be clear on the
17:02:44 11 agreement holding open with respect to documents
17:02:46 12 that we discussed on the privilege review I think
17:02:48 13 everything else I do not that we would have to
17:02:50 14 discuss we're not agreeing to that right now. Can
17:02:53 15 you give us a sense of what's happening today I
17:02:56 16 think you're happened you're going to conclude
17:02:58 17 your questions are theres who are planning to
17:03:00 18 question.

17:03:02 19 MS. PAPEZ: I assume Northstar and the
17:03:06 20 Watson will have questions.

17:03:10 21 MS. BODNER: I think we'll have less than
17:03:12 22 an hour of questions but we do plan to have some.
17:03:17 23 THE VIDEOGRAPHER: Off the record at 5:03
17:03:23 24 p.m.
17:16:24 25 (Proceedings resumed.)

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17:16:26 1 THE VIDEOGRAPHER: Back on the record at
17:16:31 2 5:16 p.m.
17:16:33 3 BY DEFENSE COUNSEL:
17:16:33 4 Q. Thank you Mr. Vonderhaar, do you
17:16:36 5 understand you're still under oath?
17:16:37 6 A. Yes, sir.
17:16:38 7 Q. Once last topic I want to go over again
17:16:40 8 that we talked about previously you have testified
17:16:42 9 that you the basis for your understanding that
17:16:45 10 Amazon but harmed came from investigation; is that
17:16:50 11 correct?
17:16:50 12 MS. PAPEZ: Objection. Form.
17:16:52 13 A. Yes, many of the details came out through
17:16:56 14 the investigation.
17:16:56 15 BY MR. LITTLE:
17:16:59 16 Q. How is that investigation conveyed to you?

17:16:59 17 MS. PAPEZ: Objection. Form.

17:17:05 18 A. Predominantly through some of the
17:17:07 19 documents that I had to review. Kind of through
17:17:11 20 this case you know prior to meeting with all of
17:17:14 21 you the documents you were showing me and things
17:17:17 22 like that. That's where I learned those. Some of
17:17:21 23 the details in the case.

17:17:21 24 BY MR. LITTLE:

17:17:25 25 Q. Was there a final report of some sort

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17:17:27 1 kind of compiling those things together that was
17:17:31 2 provided to you?

17:17:32 3 MS. PAPEZ: Objection. Form.

17:17:34 4 A. There was a complaint document but I
17:17:39 5 believe I reviewed with counsel.

17:17:42 6 Q. Prior to receiving the complaint document
17:17:45 7 were there any other documents in your mind sort
17:17:47 8 of presented this information to you?

17:17:47 9 MS. PAPEZ: Objection. Form.

17:17:51 10 A. No.

17:17:51 11 BY MR. LITTLE:

17:17:53 12 Q. So was it is it fair to say that the first
17:17:57 13 time these materials are compiled in an outlines
17:18:01 14 these am investigations but this a complaint that
17:18:03 15 you reviewed?

17:18:03 16 MS. PAPEZ: Objection. Form.

17:18:06 17 A. Yes, I think that's a fair statement.

17:18:06 18 BY MR. LITTLE:

17:18:09 19 Q. Did you personally under take any
17:18:12 20 investigation of the facts in those complaints or
17:18:15 21 in that complaint that you were provided?

17:18:15 22 MS. PAPEZ: Objection. Form.

17:18:30 23 A. No, I did not.

17:18:30 24 MR. LITTLE: I think subject to the
17:18:30 25 representations earlier about the fact that we

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17:18:30 1 were going to hold this aspect of the deposition
17:18:35 2 open I'm ready to hand it over and I appreciate
17:18:38 3 your time and your patience. Now its Mr. Watson's
17:18:42 4 counsel.

17:18:42 5 EXAMINATION BY DEFENDANT BRIAN WATSON, ET AL

17:18:42 6 BY MS. BODNER:

17:18:44 7 Q. My name is Sara Bodner and I represent

17:18:47 8 Brian Watson ain't the Watson defendants in the
17:18:50 9 case do you understand that you're still under
17:18:52 10 oath

17:18:52 11 A. Yes, ma'am.

17:18:52 12 Q. For the record my client Brian Watson
17:18:55 13 rejoined in deposition after the break. I'm going
17:18:58 14 to ask you some questions following up on what
17:19:00 15 Mr. Little asked you about if you can't understand
17:19:03 16 any of my questions please feel free to ask me to
17:19:06 17 rephrase?

17:19:07 18 A. Okay.

17:19:07 19 Q. Does Amazon track all of the datacenter
17:19:10 20 facilities it operates in Virginia?

17:19:10 21 MS. PAPEZ: Objection. Form.

17:19:19 22 A. There are definitely things that we track
17:19:21 23 by datacenter is there something specific about
17:19:23 24 our datacenter that you're inquiring about what we
17:19:27 25 track information about our datacenters.

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17:19:29 1 Q. Does Amazon track the location of all of
17:19:31 2 its datacenters this Virginia this one specific

17:19:35 3 document?

17:19:35 4 MS. PAPEZ: Objection. Form.

17:19:45 5 A. I don't know that it's a document we track
17:19:46 6 the location of our datacenter in Virginia I think
17:19:49 7 it's in a source of record some sort of tool.

17:19:49 8 BY MS. BODNER:

17:19:52 9 Q. Is there some sort of master tracking
17:19:56 10 spreadsheet for the datacenter?

17:19:56 11 MS. PAPEZ: Objection. Form.

17:20:00 12 A. I'm not aware of a tracking spreadsheet
17:20:02 13 specifically.

17:20:02 14 BY MS. BODNER:

17:20:04 15 Q. But you do you believe there's some tool
17:20:06 16 that tracks all of datacenters in Virginia?

17:20:09 17 A. Yes, I know that we though the locations
17:20:12 18 and the address of our datacenters and we can
17:20:15 19 provide that.

17:20:16 20 Q. Do you know what other information that
17:20:19 21 tool categorizes regarding the datacenters?

17:20:19 22 MS. PAPEZ: Objection. Form.

17:20:26 23 A. I think there are probably several tools
17:20:29 24 and the reason I say that is I have seen some
17:20:34 25 tools that have details about a specific site and

17:20:39 1 perhaps the parties involved, the costs the term,
17:20:44 2 etc. Its like a contracts datacenter and there's
17:20:47 3 another source that I have personally seen
17:20:49 4 sometime ago that it kind of has that list of
17:20:52 5 here's every datacenter we have and the address
17:20:55 6 and just kind of very basic information.

17:20:55 7 BY MS. BODNER:

17:21:04 8 Q. What is the purpose of that second tool
17:21:05 9 that has the information that you just testified
17:21:07 10 about?

17:21:07 11 MS. PAPEZ: Objection. Form.

17:21:09 12 A. The purpose that I'm familiar with is on
17:21:15 13 certain occasions we are required to disclose the
17:21:17 14 address of the datacenters to regulatory
17:21:23 15 authorities people doing audits business things
17:21:27 16 like that so those -- that's really the only time
17:21:30 17 that I have seen that source used is when somebody
17:21:32 18 says we need to know the location of your
17:21:35 19 datacenter to evaluate whether this fits within
17:21:37 20 our overall business continuity and recovery
17:21:41 21 profile for a differenten company or financial
17:21:43 22 services sector.

17:21:43 23 BY MS. BODNER:

17:21:48 24 Q. Do any of these tools that summarize the
17:21:52 25 Virginia datacenter include information like size?

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17:21:52 1 MS. PAPEZ: Objection. Form.

17:22:10 2 A. There is a source or location that would
17:22:12 3 say I E D X X X location that would show power is
17:22:18 4 is there so there is a sourceover data that senior
17:22:20 5 reports from that tracks those attributes.

17:22:20 6 BY MS. BODNER:

17:22:26 7 Q. So if you want to quickly compare the
17:22:27 8 different datacenters that Amazon has in Virginia
17:22:31 9 what do you look?

17:22:31 10 MS. PAPEZ: Objection. Form.

17:22:40 11 A. It depends what you want to compare I'll
17:22:42 12 give you within case you may recall the operating
17:22:45 13 plan one discussion we had earlier about our
17:22:47 14 budgeting and planning cycle O P is and O P 2 and
17:22:52 15 time office executive will ask how many
17:22:56 16 datacenters do we have or how much capacity do we
17:22:58 17 have so we query that source of data to provide a
17:23:02 18 very simple report and table to answer that

17:23:04 19 question.

17:23:04 20 BY MS. BODNER:

17:23:06 21 Q. Do you know who Brian Watson is?

17:23:08 22 A. Only by way of these proceedings.

17:23:15 23 Q. Before you proceedings you had never heard

17:23:17 24 the name Brian Watson?

17:23:19 25 A. No, ma'am, I have not.

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17:23:20 1 Q. Before these proceedings were you familiar

17:23:23 2 with Brian Watson's companies WDC Holdings or

17:23:28 3 Northstar?

17:23:28 4 A. No, ma'am.

17:23:30 5 Q. So you have never had any interaxes with

17:23:34 6 Brian Watson or his companies WDC Holdings or

17:23:38 7 Northstar?

17:23:38 8 MS. PAPEZ: Objection. Form.

17:23:42 9 A. I have never had any direct interactions

17:23:44 10 or dealings with Brian Watson or his companies.

17:23:44 11 BY MS. BODNER:

17:23:47 12 Q. Had you heard anything about Brian Watson

17:23:56 13 before 2020?

17:23:56 14 MS. PAPEZ: Objection. Form.

17:23:58 15 A. No, I had not.

17:23:59 16 Q. You they ever heard before 2020 that

17:24:02 17 anyone at Amazon had concerns about Brian Watson?

17:24:04 18 A.

17:24:06 19 MS. PAPEZ: Objection. Form.

17:24:07 20 A. No, I had not.

17:24:07 21 BY MS. BODNER:

17:24:12 22 Q. You never had any discussions with Keith

17:24:15 23 Klein about Brian Watson?

17:24:15 24 MS. PAPEZ: Objection. Form.

17:24:19 25 A. No, I don't ever recall talking about

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17:24:22 1 Brian Watson with Keith Klein.

17:24:27 2 Q. Are you aware of fact that Amazon has an

17:24:30 3 injunction requiring that my client's post21.3

17:24:35 4 million dollars?

17:24:35 5 MS. PAPEZ: Objection. Form.

17:24:46 6 A. I didn't ask.

17:24:46 7 Q. Are you aware this there is an injunction

17:24:48 8 against my client for 21.3 million dollars?

17:24:48 9 MS. PAPEZ: Objection. Form.

17:24:52 10 A. No I am not.

17:24:52 11 BY MS. BODNER:

17:25:00 12 Q. I want to go back to the CAR process that
17:25:02 13 you talked about earlier with Mr. Little you
17:25:06 14 testified about the due diligence process do you
17:25:08 15 recall that testimony?

17:25:10 16 A. Yes generally. Yes.

17:25:11 17 Q. Is the due diligence process part of CAR
17:25:18 18 approval process or something separate?

17:25:18 19 MS. PAPEZ: Objection. Form.

17:25:21 20 A. The way I think about and define the due
17:25:23 21 diligence process it is the data gathering
17:25:27 22 exercise around a particular asset to gather all
17:25:30 23 of the relevant details and present them as a
17:25:34 24 package -- as a product that represents the full
17:25:40 25 transaction with kind of those 4 areas 4 general

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17:25:44 1 buckets that describe that are then present for
17:25:47 2 the our review.

17:25:47 3 Q. Do you know if the due diligence process
17:25:53 4 for the IAD region specifically has changed
17:25:59 5 overtime?

17:25:59 6 MS. PAPEZ: Objection. Form.

17:26:01 7 A. I think it's fair to say that over time as

17:26:03 8 we look at things we have added additional

17:26:06 9 questions or inquiries, yes.

17:26:06 10 BY MS. BODNER:

17:26:10 11 Q. Do you know if that process changed

17:26:12 12 between 2018 and 2021?

17:26:17 13 A. I don't know that I can enumerate the

17:26:20 14 specific ways that its changed but its reasonable

17:26:22 15 to assume that we probably added additional

17:26:26 16 questionss or diligence items to explore.

17:26:28 17 Q. Did you add those additional items

17:26:32 18 specifically for the IAD region or was that for

17:26:36 19 the does diligence process for all availability

17:26:38 20 zones?

17:26:43 21 MS. PAPEZ: Object to form foundation.

17:26:44 22 A. Its more ladder we would at the due

17:26:47 23 diligence questions that weld cascade and use

17:26:50 24 across all regions.

17:26:50 25 BY MS. BODNER:

17:26:52 1 Q. Are you aware of any Amazon policy that
17:26:55 2 dictates what financial numbers transaction
17:27:05 3 manager's need to include this CARs?

17:27:08 4 MS. PAPEZ: Objection. Form.

17:27:08 5 A. There isn't a business practice based on a
17:27:08 6 set of templates that we maintain that say in
17:27:12 7 order to make a decision we want to review this
17:27:14 8 set of information and as I mentioned over time as
17:27:17 9 we learn more sometimes we had to or edit or
17:27:21 10 change some of those questions.

17:27:21 11 BY MS. BODNER:

17:27:28 12 Q. Who prepared those templates?

17:27:30 13 A. Its really kind of a group activity. Its
17:27:34 14 there's a team of people certainly our finance
17:27:36 15 partners maintain some of those templates but I
17:27:39 16 mentioned earlier some of the program managers
17:27:41 17 that maybe you saw on some of those e-mails Paul
17:27:44 18 as an example led to team of people they
17:27:48 19 contribute to those testimony plays or transaction
17:27:50 20 managers contribute to those templates so again it
17:27:54 21 is a -- I don't know who actually changes a
17:27:57 22 spreadsheet or a ticketing system questionnaire or
17:28:01 23 an approval template I don't know who makes those
17:28:05 24 specific changes but as a group we agree on hay
17:28:08 25 this is something we learned now we ain't to track

17:28:11 1 this new thing or this modify.

17:28:14 2 Q. Do you know if those templates have
17:28:16 3 changed since the filing of this lawsuit?

17:28:19 4 A.

17:28:20 5 MS. PAPEZ: Objection. Form.

17:28:21 6 A. I don't know the they changed. I'm not
17:28:24 7 aware of the exact time frames. They could have
17:28:28 8 changed but I don't know what the last change was
17:28:30 9 and how often you that change.

17:28:30 10 BY MS. BODNER:

17:28:38 11 Q. The CAR process is an internal Amazon
17:28:40 12 process right?

17:28:40 13 MS. PAPEZ: Objection. Form.

17:28:48 14 A. Yes what we call the CAR process is unique
17:28:50 15 an specific to Amazon other companies have similar
17:28:53 16 processes.

17:28:53 17 BY MS. BODNER:

17:28:55 18 Q. Do non Amazon employees participate in
17:28:58 19 the CAR process?

17:28:58 20 MS. PAPEZ: Objection. Form.

17:29:01 21 A. Non Amazon employees do participate in the

17:29:05 22 process in the sense they provide information to
17:29:07 23 Amazon employees who then represent that
17:29:10 24 information as their own in the CAR process.
17:29:10 25 BY MS. BODNER:

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17:29:13 1 Q. Do non Amazon employees have the
17:29:15 2 opportunity to attend any CAR review meetings?

17:29:15 3 MS. PAPEZ: Objection. Form.

17:29:20 4 A. No, they do not.

17:29:20 5 BY MS. BODNER:

17:29:25 6 Q. Do non Amazon employees have an
17:29:29 7 opportunity to review any CAR documents?

17:29:29 8 MS. PAPEZ: Objection. Form.

17:29:32 9 A. No, they do not. Not to my knowledge I
17:29:36 10 would not expect them to review or internal
17:29:38 11 confidential CAR documents.

17:29:38 12 BY MS. BODNER:

17:29:45 13 Q. Do you think that Amazon's car policyming
17:29:48 14 effectively evaluate whether a particular
17:29:51 15 transaction is this Amazon's best interest?

17:29:55 16 A. I do believe our CAR process does discover

17:30:01 17 and facilitate afternoon informed decision-making

17:30:07 18 process for Amazon. Yes.

17:30:10 19 Q. I'm going to introduce a document as

17:30:25 20 Exhibit 15. Let me know when you're able to see

17:30:44 21 it?

17:30:44 22 A. Document 17.

17:30:46 23 Q. This is document 17 Exhibit CV 15?

17:30:50 24 (Exhibit 15 was marked.)

17:30:50 25 A. I got it. Thank you.

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17:30:50 1 BY MS. BODNER:

17:30:56 2 Q. I want to draw your attention to the

17:30:59 3 second page to the March 2nd -- March 12, 201811

17:31:06 4 a.m. e-mail?

17:31:19 5 A. I got it second page. I got it.

17:31:26 6 Q. Do you recognize this e-mail?

17:31:27 7 A. I recognize that as an e-mail I sent to

17:31:30 8 Andy seeking approval.

17:31:33 9 Q. At the time you sent this e-mail had you

17:31:36 10 approved the CAR for IAD 124, 125, 126 and 127?

17:31:36 11 MS. PAPEZ: Objection. Form.

17:31:46 12 A. Yes, I had approved it and now I was

17:31:49 13 seeking Andy Jassy's approval.

17:31:49 14 BY MS. BODNER:

17:31:54 15 Q. If you scroll you u you and its split

17:31:57 16 between the first an second pages does Andy Jassy

17:32:01 17 approve your request?

17:32:02 18 A. Yes.

17:32:02 19 Q.

17:32:09 20 Q. Do you see the e-mail that you sent at

17:32:11 21 7:44 p.m.?

17:32:19 22 Q. Can you read that please?

17:32:20 23 A. The 727 /PWAOU I can't.

17:32:22 24 Q. No, the 7/24/19 make us whole?

17:32:23 25 A. Make us whole for a long time.

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17:32:26 1 Q. What did you mean by that?

17:32:28 2 A. This was a significant transaction for us

17:32:40 3 typically we set CARS up for one or two

17:32:43 4 properties. At the time Carl and the team were

17:32:45 5 working pretty hard to identify properties that

17:32:48 6 will satisfy a ten plus year demand forecast so we

17:32:53 7 were extending our horizon that was something at

17:32:57 8 the time that was knew and different for us and in
17:33:03 9 reading the e-mail it was significant to go to
17:33:08 10 Andy we're asking for your approval on not one or
17:33:12 11 two but actually I believe four B T Ss in one ask.
17:33:17 12 So that kind of set basically that set a
17:33:23 13 new tone because we were able to explain to Andy
17:33:25 14 and others that we worked for that hay we were
17:33:28 15 thousand looking over a longer her risen. We were
17:33:31 16 going to attempt to solve for demand not for five
17:33:34 17 or 6 years but for ten plus years an my comment on
17:33:39 18 make us whole for a long time referred back to
17:33:41 19 that we want to make sure we have supply looked up
17:33:44 20 for ten plus years in IAD and it was kind of a
17:33:49 21 milestone

17:33:50 22 Q. Because there was a significant
17:33:54 23 transaction did it receive extra attention in the
17:33:57 24 CAR approval process?

17:33:57 25 MS. PAPEZ: Objection. Form.

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17:34:02 1 A. The individual transaction as I recall
17:34:05 2 back at the time frame the individual transactions
17:34:09 3 I don't think -- like for example 12 or 125 didn't

17:34:16 4 receive necessarily extra scrutiny we were using
17:34:20 5 template we was a standard way that we look at
17:34:22 6 those things so I wouldn't say that the individual
17:34:25 7 transactions it represented here received extra
17:34:30 8 scrutiny what was unique and different was me
17:34:33 9 sending a note to Andy as a bundle or group that
17:34:36 10 required some additional commentary explaining
17:34:40 11 some of the uniqueness around those transactions.

17:34:40 12 BY MS. BODNER:

17:34:45 13 Q. Do you recall having any discussions with
17:34:48 14 Andy Jassy over the phone about this -- about
17:34:51 15 these four CARs?

17:34:59 16 A. I do not recall talking about CARs over
17:35:01 17 the phone with Andy.

17:35:02 18 Q. Do you recall talking about these four
17:35:04 19 CARs at all outside of context of this e-mail?

17:35:09 20 A. No, I don't. Most of my -- my
17:35:11 21 correspondence with Andy is usually around these
17:35:15 22 transactions and e-mail.

17:35:17 23 Q. I think you just testified that you
17:35:19 24 included some additional commentary in this
17:35:22 25 e-mail; is that correct?

17:35:22 1 MS. PAPEZ: Objection. Form.

17:35:26 2 A. Yes, it looks like I had some additional
17:35:30 3 commentary.

17:35:30 4 BY MS. BODNER:

17:35:31 5 Q. Can you point me to which lines in your
17:35:36 6 e-mail to Andy Jassy weren colluded?

17:35:44 7 A. The additional commentary in the e-mail to
17:35:48 8 Andy Jassy on page two an example being the -- you
17:35:51 9 see the fourth paragraph down the italicized
17:35:55 10 commentary why now.

17:35:57 11 Q. I do see that?

17:35:58 12 A. There's a -- so this is me anticipating a
17:36:02 13 question from Andy about why are we doing four in
17:36:06 14 a row to satisfy demand through I guess -- through
17:36:15 15 a longer term at the time. So in anticipation of
17:36:19 16 that question I tried to get this front of that so
17:36:22 17 to make it as efficient as possible it anticipates
17:36:25 18 the question.

17:36:28 19 Q. Have you experienced Andy Jassy ask
17:36:34 20 questions in response to a CAR approval request
17:36:36 21 that you sent him?

17:36:36 22 MS. PAPEZ: Objection. Form.

17:36:38 23 A. Yes, I have.

17:36:38 24 BY MS. BODNER:

17:36:41 25 Q. Going to introduce another document.

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17:37:00 1 This is document 16 exhibit CV 14. Let me know

17:37:04 2 when you see it.

17:37:06 3 (Exhibit 16 was marked.)

17:37:13 4 MS. BODNER: CV 16 document 18

17:37:19 5 Q. Do you see the e-mail you sent on Friday

17:37:21 6 June 15 at 9:29 a.m.?

17:37:30 7 A. I do.

17:37:31 8 Q. Do you recognize that e-mail?

17:37:33 9 A. Yes, I recognize that I sent it. I don't

17:37:36 10 remember sending it but I see it. Yes.

17:37:38 11 Q. What was the purpose of this e-mail?

17:37:38 12 MS. PAPEZ: Objection. Form.

17:37:53 13 A. As indicated in the first paragraph I was

17:37:56 14 seek his approval to build a suit to.

17:37:56 15 BY MS. BODNER:

17:38:02 16 Q. Did Andy Jassy approve IAD 130 and 131?

17:38:06 17 A. He did in the e-mail above June 153:345.

17:38:11 18 Q. And this was June 15, 2018 correct?

17:38:14 19 A. Yes, it was.

17:38:16 20 Q. Do you know if Amazon still occupies the
17:38:27 21 datacenter at IAD 130 and 131?

17:38:27 22 MS. PAPEZ: Objection. Form.

17:38:33 23 A. I believe we do -- I'm not 100 percent
17:38:37 24 sure. I'm not sure actually. We haven't vacated
17:38:47 25 any datacenters but if these were the plots of

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17:38:50 1 land that we referred to in the previous testimony
17:38:54 2 maybe so, but it's hard for me to say yes IAD 130
17:38:59 3 and 131 is in operation right thousand today
17:39:02 4 without going and checking.

17:39:02 5 BY MS. BODNER:

17:39:08 6 Q. Would you be able to check if you
17:39:09 7 reviewed internal Amazon records?

17:39:12 8 A. Yes, if I want back to those sources I
17:39:15 9 could see if IAD 130 and 131 were operational and
17:39:20 10 had capacity in them.

17:39:22 11 MS. BODNER: I'm going to introduce another
17:39:24 12 document. This is document 19 Exhibit CV 17. Let
17:39:37 13 me know when you see it.

17:39:38 14 (Exhibit 17 was marked.)

17:39:38 15 A. I have it.

17:39:38 16 BY MS. BODNER:

17:39:44 17 Q. If you could go to page 6 please?

17:39:56 18 A. Okay.

17:39:57 19 Q. Do you see the e-mail you sent to Andy

17:40:00 20 Jassy on February 26, 2018?

17:40:05 21 A. I do.

17:40:05 22 Q. Do you recognize this e-mail?

17:40:10 23 A. Yes.

17:40:10 24 Q. What was the purpose of this e-mail?

17:40:10 25 MS. PAPEZ: Objection. Form.

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17:40:16 1 A. As indicate in the first paragraph I was

17:40:18 2 seeking approval for a child site build-to-suit.

17:40:22 3 This would have been for IAD 145.

17:40:31 4 Q. Had you already reviewed the CAR for IAD

17:40:35 5 145 when you sent this e-mail?

17:40:37 6 A. Yes, I would have reviewed this and

17:40:38 7 approved it before sending this to him.

17:40:43 8 Q. Had Peter DeSantis reviewed and approved

17:40:49 9 this CAR?

17:40:49 10 MS. PAPEZ: Objection. Form.

17:40:51 11 A. I believe he probably did, yes.

17:40:51 12 BY MS. BODNER:

17:40:56 13 Q. Do you see in the first paragraph it says

17:40:58 14 Peter reviewed and approved this CAR?

17:41:00 15 A. Yes I do see that.

17:41:08 16 Q. Do you understand that to mean that Peter

17:41:11 17 DeSantis did review and approve this CAR?

17:41:14 18 A. Yes, I missed that the first time.

17:41:16 19 Q. Did Peter DeSantis ever send request for

17:41:20 20 approval to Andy Jassy?

17:41:20 21 MS. PAPEZ: Objection. Form.

17:41:23 22 A. I don't recall Peter sending approval

17:41:26 23 request to Andy, no.

17:41:26 24 BY MS. BODNER:

17:41:31 25 Q. Do you know why that is?

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17:41:31 1 MS. PAPEZ: Objection. Form.

17:41:35 2 A. Mostly because that was my job in the

17:41:36 3 approval process I aed it and then after I

17:41:39 4 approved it it required higher approval authority

17:41:43 5 and that went to Andy. Peter reviewed it to make

17:41:47 6 sure my judgement and my decisions were correct.

17:41:47 7 BY MS. BODNER:

17:41:51 8 Q. Do you recall having any involvement with

17:41:53 9 the IAD 175?

17:41:53 10 MS. PAPEZ: Objection. Form.

17:42:00 11 A. Sorry the number doesn't ring a bell

17:42:05 12 mainly because there's a -- and I'm not trying to

17:42:08 13 be difficult there's a lot of datacenters.

17:42:12 14 MS. BODNER: Understood.

17:42:12 15 BY MS. BODNER:

17:42:16 16 Q. You testified earlier that you would

17:42:17 17 expect to see a disclosure of referral of

17:42:22 18 brokerage fees do you recall that testimony?

17:42:22 19 MS. PAPEZ: Objection. Form.

17:42:26 20 A. Yes I recall that testimony. Essentially

17:42:29 21 we require and we expect disclose your of any and

17:42:34 22 all fees that we oar going to pay and to whom

17:42:37 23 we're paying them to.

17:42:37 24 BY MS. BODNER:

17:42:40 25 Q. Where would you expect to see that

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17:42:41 1 disclosure?

17:42:44 2 A. That would come out in the CAR template in
17:42:48 3 the details. It would -- there would be a build
17:42:52 4 up or a schedule a financial schedule that would
17:42:55 5 show what we're paying to whom and why so it would
17:42:58 6 be in the details of that template.

17:43:02 7 Q. Did you prepare a financial schedule?

17:43:02 8 MS. PAPEZ: Objection. Form.

17:43:08 9 A. It's a combination of your real
17:43:11 10 transaction manager working with their finance
17:43:13 11 partners.

17:43:13 12 BY MS. BODNER:

17:43:16 13 Q. Do CAR reviewers ever ask to see any
17:43:19 14 documentation to support what's included in that
17:43:24 15 financial?

17:43:24 16 MS. PAPEZ: Objection. Form.

17:43:29 17 A. We will ask someone like me may or will
17:43:33 18 ask for additional explanation and clarification
17:43:36 19 but largely that's determined by the disclosures
17:43:40 20 that a real estate transaction manager and our
17:43:47 21 finance managers make where they feel something
17:43:50 22 ordinary they apply their judgments and kind of
17:43:54 23 per the code of conduct they disclose anything
17:43:58 24 that's new and different about in that we should
17:43:59 25 be you aware of along with their representation of

17:44:06 1 what's right and appropriate and what Amazon would
17:44:09 2 do.

17:44:17 3 Q. Only Amazon employees can prepare a
17:44:23 4 schedule that you just explained?

17:44:23 5 MS. PAPEZ: Objection. Form.

17:44:24 6 A. Yes, only Amazon employees participate in
17:44:27 7 the assembly of this documentation sorry may I
17:44:36 8 correct as I said earlier Amazon employees are the
17:44:38 9 ones entering that information to say that they're
17:44:41 10 the only ones that participate it's not watt
17:44:45 11 gather information and vendors and partners to
17:44:48 12 take that information that Amazon employees are
17:44:52 13 the ones that actually construct these schedules
17:44:56 14 an templates that we review I didn't mean to
17:44:59 15 misspeak there.

17:44:59 16 BY MS. BODNER:

17:45:09 17 Q. Do you have in any Amazon business
17:45:11 18 personnel had concern about Northstar leases
17:45:13 19 before the internal investigation that you
17:45:15 20 referenced began?

17:45:23 21 A. I'll not aware of any concern about

17:45:25 22 Northstar entity partner or company prior to the
17:45:28 23 investigation.

17:45:28 24 Q. Do you know why that investigation was
17:45:30 25 initiated?

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17:45:43 1 A. What I learned is that time after these
17:45:46 2 transactions were executed some concerns were
17:45:50 3 escalated and raised about the transactions that
17:45:53 4 led to the investigation. Really don't know who
17:45:56 5 initiated what and when I don't have the answers.

17:46:14 6 Q. Do you recall ever having any concerns
17:46:16 7 about CARs prepared biby Casey Kirschner before
17:46:20 8 this investigation began?

17:46:20 9 MS. PAPEZ: Objection. Form.

17:46:26 10 A. Generally no. Casey prepared his CARs as
17:46:34 11 well as anybody else. He was an active
17:46:38 12 participant and represented his transactions just
17:46:40 13 like any of our other employees.

17:46:40 14 BY MS. BODNER:

17:46:44 15 Q. Do you recall ever having concerns about
17:46:48 16 CARs prepared by Carl Nelson before the
17:46:56 17 investigation was?

17:46:56 18 MS. PAPEZ: Objection. Form.

17:46:58 19 A. No Carl and I even Casey and I engaged in
17:47:01 20 how what can we do better we didn't have any
17:47:05 21 concerns. They were people that I counted on to
17:47:08 22 look after our business interest at IAD and gather
17:47:11 23 the details an represent and present
17:47:14 24 recommendations for how Amazon could scale its
17:47:17 25 business.

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17:47:22 1 Q. Have you ever reviewed CARs submitted by
17:47:25 2 Keith Klein?

17:47:25 3 MS. PAPEZ: Objection. Form.

17:47:29 4 A. I'm pretty sure I have. I can't point to
17:47:31 5 a specific CAR.

17:47:31 6 BY MS. BODNER:

17:47:34 7 Q. Do you recall ever having concerns about
17:47:36 8 the the CARs submitted by Keith Klein?

17:47:36 9 MS. PAPEZ: Objection. Form.

17:47:42 10 A. No, I don't recall specific concerns about
17:47:44 11 Keith's CARs.

17:47:44 12 BY MS. BODNER:

17:47:47 13 Q. Do you recall ever having any concerns
17:47:49 14 about Keith Klein's work?

17:47:53 15 MS. PAPEZ: Objection. Form.

17:47:54 16 A. No quite the contrary.

17:47:54 17 BY MS. BODNER:

17:48:08 18 Q. Are you involved in the execution of
17:48:11 19 build-to-suit leases?

17:48:11 20 MS. PAPEZ: Objection. Form.

17:48:17 21 A. I would say no I'm not involved in the
17:48:18 22 execution of the leases. I'm involved in the
17:48:21 23 approval of the capital and the other funding that
17:48:25 24 goes into the execution of leases. Sorry as I say
17:48:31 25 that -- there may actually be dock sign -- there

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17:48:36 1 may be leases that come through to me through dock
17:48:39 2 sign that I have to review and approve. That may
17:48:42 3 be in fact the case now that I said that.

17:48:42 4 BY MS. BODNER:

17:48:47 5 Q. Do you have sign build-to-suit leases on
17:48:50 6 behalf of of Amazon?

17:48:51 7 A. I believe that I have.

17:48:52 8 Q. Do you recall how many build-to-suit

17:48:56 9 leases you signed on behalf of Amazon?

17:48:59 10 A. No, ma'am, I don't know how many I have
17:49:02 11 signed.

17:49:02 12 Q. What do you do to review a build-to-suit
17:49:06 13 lease?

17:49:07 14 A. The build-to-suit leases come to me
17:49:12 15 through dock sign in electronic format with an
17:49:16 16 introductory paragraph that says here's what this
17:49:19 17 is and what its for and then I scan through the
17:49:24 18 build-to-suit lease, much of it is very detailed
17:49:28 19 technical into about the attributes of lease. I
17:49:32 20 review certain things make sure its look like its
17:49:35 21 this order and best of my ability and then I
17:49:38 22 electronically sign.

17:49:39 23 Q. Is Amazon have inside counsel review
17:49:47 24 build-to-suit leases?

17:49:47 25 MS. PAPEZ: Objection. Form.

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17:49:52 1 A. Yes, those build-to-suit leases I believe
17:49:56 2 are reviewed by inside counsel. Yes.

17:49:56 3 BY MS. BODNER:

17:50:00 4 Q. Do you know if Amazon has outside counsel

17:50:02 5 review build-to-suit leases?

17:50:11 6 A. I don't know if that's the case.

17:50:13 7 Q. Have you ever interacted with outside

17:50:15 8 counsel in the context of a build-to-suit lease?

17:50:20 9 A. Not prior to this case.

17:50:21 10 Q. Did you have any involvement in the

17:50:25 11 execution of Northstar leases?

17:50:25 12 MS. PAPEZ: Objection. Form.

17:50:31 13 A. No. First hand responsibility or activity

17:50:34 14 in the execution of the lease and I don't recall

17:50:37 15 if there was an electronic that was required of

17:50:40 16 this business that I signed.

17:50:40 17 BY MS. BODNER:

17:50:45 18 Q. Do you recall reviewing any of the

17:50:46 19 Northstar leases?

17:50:47 20 A. No, I don't recall specifically.

17:50:49 21 Q. Did you have any involvement in the

17:51:00 22 removal of Northstar from the leases that it was

17:51:03 23 originally a party to?

17:51:03 24 MS. PAPEZ: Objection. Form.

17:51:09 25 A. I didn't have any first hand or direct

17:51:13 1 execution responsibility in removal of Northstar.

17:51:13 2 BY MS. BODNER:

17:51:29 3 Q. Did you have any involvement in the

17:51:31 4 removal of star other than the signing of IPI

17:51:36 5 settlement agreement?

17:51:39 6 MS. PAPEZ: Objection form and foundation.

17:51:40 7 A. To my knowledge I did not other than that

17:51:48 8 signing.

17:51:48 9 BY MS. BODNER:

17:51:50 10 Q. Do you know if Amazon had any datacenter

17:51:53 11 leases with IPI before April 2020?

17:51:56 12 A. No, I don't recall whether we did or

17:51:58 13 didn't.

17:51:58 14 Q. Excluding the Northstar leases do you know

17:52:07 15 how many datacenter leases Amazon has with IPI

17:52:10 16 since April 2020?

17:52:14 17 A. I don't. No.

17:52:15 18 Q. Have you had any discussions at any time

17:52:24 19 with any current or former employee of IPI about

17:52:29 20 Brian Watson or his companies?

17:52:29 21 MS. PAPEZ: Objection. Form.

17:52:32 22 A. No I have not had any discussions with

17:52:37 23 IPI.

17:52:37 24 BY MS. BODNER:

17:52:37 25 Q. Do you know someone named Luke Gilpin?

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17:52:41 1 A. No, I don't know Luke Gilpin.

17:52:44 2 Q. Do you know someone named Matt Ahern?

17:52:47 3 A. I don't recall that name either.

17:52:49 4 Q. Do you know someone named Shawn Ivory?

17:52:52 5 A. No, don't remember that name either.

17:53:09 6 Q. Were you involved in the renegotiation of

17:53:14 7 the Northstar leases with IPI?

17:53:14 8 MS. PAPEZ: Objection. Form.

17:53:19 9 A. I was not directly involved. No.

17:53:19 10 BY MS. BODNER:

17:53:26 11 Q. Do you know if anything was changed in

17:53:29 12 those leases?

17:53:32 13 A. I don't know the specifics of what was

17:53:34 14 changed. Foundationally what I recall was and I

17:53:42 15 was mostly breasted this manging sure we

17:53:44 16 maintained business continuity in those properties

17:53:47 17 and what I read and what I looked for was

17:53:52 18 headaching sure we had the right relationship in

17:53:55 19 place to make sure we could continue doing

17:53:57 20 business.

17:54:02 21 Q. Do you know where Amazon was in charge of
17:54:05 22 amending those leases?

17:54:07 23 A. I do not know who was in charge of
17:54:12 24 amending the leases.

17:54:13 25 Q. Do you know who at Amazon if anyone was in

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17:54:15 1 charge of identifying what needed to be amended
17:54:18 2 this those leases?

17:54:18 3 MS. PAPEZ: Objection. Form.

17:54:22 4 A. No, I don't know who desited what needed
17:54:24 5 to change.

17:54:24 6 BY MS. BODNER:

17:54:26 7 Q. Do you recall having any discussing with
17:54:28 8 Keith Klein about the Northstar leases at any
17:54:31 9 time?

17:54:32 10 A. No, I don't recall talking abouter
17:54:35 11 Northstar leases can Keith Klein.

17:54:42 12 Q. Are you aware of any kickbacks involving
17:54:58 13 anyone at Amazon at any time?

17:54:58 14 MS. PAPEZ: Objection. Form.

17:55:06 15 A. Only the kickbacks that we're discussing

17:55:09 16 in this case.

17:55:09 17 BY MS. BODNER:

17:55:11 18 Q. Other than the allegations in this case

17:55:12 19 you're not aware of any current or former employee

17:55:16 20 at Amazon accepting kickbacks?

17:55:18 21 A. I'm not aware of any of those -- certainly

17:55:23 22 any details of kickbacks for employees no.

17:55:34 23 Q. We talked about a code of conduct that

17:55:37 24 Amazon employees have to sign correct?

17:55:39 25 MS. PAPEZ: Objection. Form misstates

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17:55:41 1 testimony?

17:55:42 2 A. I'm aware of the code of conduct that

17:55:46 3 governs our behalf your as employees yes.

17:55:46 4 BY MS. BODNER:

17:55:51 5 Q. Do non Amazon employees have to sign that

17:55:54 6 code of conduct?

17:55:55 7 MS. PAPEZ: Objection. Form.

17:56:03 8 A. I'm not certain about this but I believe

17:56:05 9 our code of conduct does transfer to our partners

17:56:08 10 but I can't be sure about thousand that manifests

17:56:12 11 itself.

17:56:12 12 Q.

17:56:12 13 MS. BODNER: Do you have any idea how that

17:56:14 14 code of conduct translates to Amazon's partners.

17:56:17 15 MS. PAPEZ: Objection. Form?

17:56:18 16 A. I don't know the specifics of how that

17:56:20 17 occurs, no, but -- no, I don't.

17:56:20 18 BY MS. BODNER:

17:56:29 19 Q. What leads you to believe that that code

17:56:30 20 of conduct extends to non Amazon employees?

17:56:33 21 A. Generally speaking and not just associated

17:56:36 22 with real estate when we engage with a partner, we

17:56:40 23 have to make sure that partner conducts business

17:56:44 24 to the same standard that we hold ourself to so

17:56:48 25 that they are partner represents the best interest

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17:56:50 1 of Amazon and certainly doesn't cause harm to your

17:56:55 2 brand and our customers.

17:56:56 3 Q. Are you aware of any documents that part

17:57:10 4 they ares have to sign indicating that they're

17:57:15 5 aware that that is Amazon's expectation of them?

17:57:15 6 MS. PAPEZ: Objection. Form.

17:57:18 7 A. I'm not aware of the specific documents.

17:57:20 8 I can speculate that I'm not -- I can't say that I

17:57:24 9 have seen that or studied that specific language

17:57:26 10 in various contractual documents.

17:57:26 11 BY MS. BODNER:

17:57:31 12 Q. Do you know who at Amazon would know?

17:57:37 13 A. I would assume members of your legal team

17:57:39 14 who work with us on these kinds of agreements

17:57:42 15 would know. I would also expect some of our

17:57:48 16 business people you mean people for example on our

17:57:51 17 real estate transaction management team people who

17:57:54 18 are engaging with your partners to know at least

17:57:58 19 on some levels what the expectations are so they

17:58:02 20 can communicate that to the partners that are

17:58:04 21 doing business with.

17:58:05 22 Q. Are you aware of any Amazon policiess

17:58:08 23 regarding what real estate personnel need to

17:58:11 24 convey to Amazon partners?

17:58:11 25 MS. PAPEZ: Objection. Form.

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17:58:15 1 A. I believe we have what I have sign we have

17:58:23 2 things like nondisclosure agreement and other
17:58:26 3 standard documents that our rest transaction
17:58:32 4 manager's are expected share with our partners an
17:58:35 5 vendors.

17:58:35 6 Q. Do you know someone named John any limb?

17:58:40 7 A. The name sounds familiar I'm trying to
17:58:43 8 remember where I saw that name. It's not somebody
17:58:45 9 I was engaged with.

17:58:54 10 Q. You don't recall anything about why you
17:58:56 11 know the name John any limb?

17:58:58 12 A. I want to say I saw that -- I'm not
17:59:01 13 certain. I think I saw a reference to that name
17:59:05 14 in this case someplace but I can't be sure and
17:59:09 15 I'll not where I saw it. But it's a familiar
17:59:18 16 name.

17:59:20 17 Q. You testified that you spoke with the FBI
17:59:23 18 on one occasion, correct?

17:59:23 19 MS. PAPEZ: Objection. Form.

17:59:27 20 A. Yes, I did.

17:59:27 21 BY MS. BODNER:

17:59:29 22 Q. Did the government ask you any questions
17:59:33 23 about Brian Watson or his companies?

17:59:35 24 A. I don't recall that they asked me about
17:59:43 25 Brian Watson or his companies.

17:59:43 1 BY MS. BODNER:

17:59:47 2 Q. Do you recall if the Government asked you
17:59:49 3 about WDC Holdings or Northstar?

17:59:52 4 A. No, I don't. I don't remember them asking
17:59:57 5 me questions about those companies.

18:00:03 6 Q. Do you have any personal knowledge that
18:00:11 7 the Northstar leases included improper yields?

18:00:11 8 MS. PAPEZ: Objection. Form.

18:00:23 9 A. I don't recall looking at these CARs when
18:00:25 10 they came to this process and seeing if they were
18:00:29 11 improper, no.

18:00:29 12 BY MS. BODNER:

18:00:54 13 Q. I'm going to introduce another document.

18:01:03 14 This is document 20 exhibit CV 18?

18:01:07 15 (Exhibit 18 was marked.)

18:01:10 16 MS. BODNER: Let me know when you see it?

18:01:11 17 A. I have it.

18:01:12 18 Q. Do you recognize this document?

18:01:21 19 A. Vaguely. It looks like some of the

18:01:24 20 documents I have had to review.

18:01:26 21 Q. Do you see that its titled

https://urldefense.proofpoint.com/v2/url?u=http-3A__Amazon.com&d=DwIGAg&c=wT9hcAyWecHwFHlf1ZE30A&r=IcGIiwhuRpB-tDQgFX5Skg_KofTBdhQVVzsEs6QIsWA&m=7QlBvWI7CR0q7C09Ke2YNx1

s9s7-Bp1AHWDY7ASyp8FRwVCq_uIG_fiQLc8Bt2u3&s=u6r4au_Rld3MPCpD_HgT6dhrJVob_JsWFjoLYW2X48c&e= ink

18:01:31 22 and Amazon data service inks revised responses to

18:01:36 23 Brian Watson first set of interrogatories to

18:01:38 24 plaintiffs?

18:01:39 25 A. I do see that at the bottom of page one

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18:01:42 1 yes.

18:01:42 2 Q. I'm going to flip to page 21 but if you

18:01:45 3 want a second to look through the document you can

18:01:47 4 certainly take that time?

18:01:49 5 A. I'm just going to kind of scroll through

18:01:51 6 there to kind of refresh my memory on my way to 21

18:01:56 7 if that's okay.

18:02:00 8 Q. That's fine.

18:02:45 9 A. Okay I look at the outline and content I

18:02:48 10 didn't read every paragraph but I'm on 21 now.

18:02:53 11 Q. Do you see that you declared under penalty

18:02:55 12 of perjury that that responses contained in this

18:02:57 13 document were true and correct?

18:03:00 14 A. I do.

18:03:01 15 Q.

18:03:09 16 Q. What did you do to Congress firm a truth
18:03:11 17 and accuracy of the documents contained in the
18:03:13 18 document?

18:03:17 19 MS. PAPEZ: Objection. Form.

18:03:17 20 A. Two things read the document before I
18:03:20 21 signed it and second thing is in the process of
18:03:22 22 preparing for this and even when this document was
18:03:25 23 presented but given an overview of how the
18:03:28 24 information was gathered high level internal
18:03:31 25 Amazon investigators or people conducted in the

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18:03:35 1 investigation resulted in in the details it
18:03:43 2 presented in this and those two documents so it
18:03:46 3 was those two things.

18:03:46 4 BY MS. BODNER:

18:03:49 5 Q. Did you do anything other than those two
18:03:51 6 things to confirm the truth and accuracy of these
18:03:54 7 responses?

18:03:54 8 A. No, I did not.

18:03:55 9 Q. You have no first-hand knowledge of what
18:03:57 10 the investigators told you correct?

18:03:57 11 MS. PAPEZ: Objection. Form.

18:04:00 12 A. That is correct. I relied on information

18:04:03 13 discovered an presented by the investigators.

18:04:12 14 Q. Did you do anything to confirm accuracy of

18:04:16 15 the information provided to you by the

18:04:18 16 investigators?

18:04:18 17 MS. PAPEZ: Objection. Form asked and

18:04:21 18 answered?

18:04:21 19 A. No, I did not.

18:04:24 20 MS. BODNER: I'm going to introduce

18:04:27 21 another document as Exhibit CV 19 let me know when

18:04:39 22 you can see it.

18:04:39 23 A. Yes.

18:04:40 24 Q. Do you recognize this as Amazon's -- --

18:04:43 25 strike that. .

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18:04:44 1 (Exhibit 19 was marked.)

18:04:44 2 BY MS. BODNER:

18:04:45 3 Q. Do you recognize this as Amazon's

18:04:46 4 responses to Brian Watson second set of

18:04:48 5 interrogatories to plaintiffs

18:04:49 6 A. Yes that's what I see at the bottom of

18:04:52 7 page 1. Yes.

18:04:53 8 Q. I'm going to focus on page 8 but if you

18:04:56 9 would like to take the time to scroll through the

18:04:59 10 document please go ahead?

18:05:00 11 A. Thank you. Okay I'm on page 8.

18:05:35 12 Q. Do you see that you declared urn penalty

18:05:36 13 of perjury that the responses contained in this

18:05:39 14 document are true an correct?

18:05:43 15 MS. PAPEZ: Objection form abcompleteness.

18:05:45 16 A. I do.

18:05:45 17 BY MS. BODNER:

18:05:46 18 Q. What did you do to confirm the truth and

18:05:48 19 accuracy of the responses contained in this

18:05:51 20 document?

18:05:51 21 A. Similar to the previous document brief

18:05:55 22 conversation with internal counsel about what I

18:05:57 23 was being presented with and what my duties were

18:06:00 24 followed by me reading the document and signing it

18:06:03 25 as a representative of Amazon.

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18:06:16 1 Q. Did you part with any to the meetings with

18:06:19 2 the Government described this Amazon's response?

18:06:19 3 MS. PAPEZ: Objection. Form.

18:06:25 4 A. I think you're refer together meeting on
18:06:28 5 page 3 and 4 no I didn't if those are what you're
18:06:31 6 referring to I did not participate.

18:06:31 7 BY MS. BODNER:

18:06:35 8 Q. Did anyone at Amazon advise you as to
18:06:38 9 what transpires during the meetings described on
18:06:41 10 pages 3 and 4?

18:06:43 11 A. Only to say that I was adviced that these
18:06:46 12 meetings took place and that as a representative
18:06:49 13 of Amazon I was okay and could approve this --
18:06:58 14 whatever you call this document.

18:06:59 15 Q. Do you have any understanding as to what
18:07:01 16 occurred during the meetings described on pages 3
18:07:05 17 and 4?

18:07:05 18 MS. PAPEZ: Objection. Form.

18:07:08 19 A. No not in detail.

18:07:08 20 BY MS. BODNER:

18:07:12 21 Q. At a high level do you have any
18:07:13 22 understanding?

18:07:13 23 MS. PAPEZ: Objection. Form.

18:07:19 24 A. Level with these mettings took place as
18:07:22 25 part of proceedings in this case.

18:07:34 1 MS. BODNER: I'm going to introduce one
18:07:36 2 more document its marked as exhibit CV 20 please
18:07:39 3 let me know when you can see it.

18:07:46 4 (Exhibit 20 was marked.)

18:07:55 5 Q. Do you recognize this as Amazon responses
18:07:57 6 to Brian Watson third set of answers to
18:07:59 7 interrogatories responses to plaintiffs?

18:08:01 8 A. I do.

18:08:02 9 Q. Do you recognize this document?

18:08:03 10 A. This looks familiar and in terms of
18:08:06 11 several documents that are like it yes.

18:08:07 12 Q. I'm going to go to page 13 but if you want
18:08:13 13 to scroll through please go ahead?

18:08:49 14 A. Okay I'm there on 14.

18:08:50 15 Q. Did you declare under penalty of perjury
18:08:53 16 that the responses contained in this document were
18:08:55 17 true and correct?

18:08:57 18 MS. PAPEZ: Objection. Form and Sarah
18:08:59 19 completeness this is the third time you have done
18:09:01 20 this where the question is not complete there's
18:09:05 21 more to this declaration than your question
18:09:08 22 represents?

18:09:09 23 Q.

18:09:10 24 MS. BODNER: Can you please read into the

18:09:12 25 record the last sentence contained in this

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18:09:14 1 verification?

18:09:15 2 A. On page 13.

18:09:17 3 Q. Yes, please?

18:09:20 4 A. I declare under penalty of perjury and

18:09:23 5 under the laws of the United States and the state

18:09:25 6 of California that the foregoing is true and

18:09:28 7 correct and that I executed this verification on

18:09:31 8 March 14, 2022.

18:09:38 9 Q. You signed this verification, correct?

18:09:40 10 A. I did electronically sign this, yes.

18:09:43 11 Q. What did I do to confirm the truth and

18:09:45 12 accuracy of the responses contained in this

18:09:49 13 document?

18:09:50 14 A. I had a conversation with internal counsel

18:09:53 15 for about -- that this document would be coming

18:09:57 16 for my signature about what the -- roughly what

18:10:00 17 the contents of this document were, why it was

18:10:05 18 important and give me a chance to ask questions

18:10:08 19 then I read the document that was the second thing

18:10:10 20 I did and signed it.

18:10:11 21 Q. Do you recall the questions you asked?

18:10:19 22 MS. PAPEZ: Objection. Form I'm going to

18:10:20 23 object of course you can answer if you have a high

18:10:23 24 level sense of question but I'm going to instruct

18:10:26 25 you not to get into any content of your

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18:10:29 1 communication with counsel on the document?

18:10:33 2 A. Yes probably not a lot I can share based

18:10:38 3 on guidance of counsel.

18:10:38 4 BY MS. BODNER:

18:10:42 5 Q. Did you have any conversation with Amazon

18:10:44 6 business folks about these responses?

18:10:48 7 A. I didn't have any conversation with any of

18:10:51 8 my business peers, no.

18:10:53 9 Q. I want to draw your attention to the 6th

18:10:59 10 page of PDF which is the answer to interrogatory

18:11:02 11 No. 18?

18:11:03 12 A. Okay.

18:11:05 13 Q. I'll give you second to look through that

18:11:08 14 answer.

18:11:34 15 A. I read through the page 6.

18:11:41 16 Q. You're a basis for this answer?

18:11:41 17 MS. PAPEZ: Objection. Form.

18:11:53 18 A. The basis for the answer why the amount in

18:11:56 19 the last paragraph, no.

18:11:56 20 BY MS. BODNER:

18:12:00 21 Q. If you look at No. 4 on page 8 can you

18:12:05 22 read the full sentence starting with all fees

18:12:09 23 received by the Watson?

18:12:11 24 A. Sure. I'll read No. 4 all fees received

18:12:15 25 by the Watson and W DC defendants from the less

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18:12:19 1 sores in an amount of at least 15 million

18:12:26 2 263,000163 dollars which includes approximately 5

18:12:29 3 million 120,000 dollars in kickbacks attributable

18:12:35 4 to the leases paid to defendant's Nelson and

18:12:37 5 Kirschner by deaf's Watson and WDC Holdings via

18:12:42 6 the Villanova trust.

18:12:46 7 Q. Do you know how that figurover 15 million

18:12:50 8 263,163 was calculated?

18:12:56 9 A. As it states in that paragraph at least

18:13:00 10 part of that 15 million was calculated off the 5
18:13:04 11 million in kickbacks attributable to Nelson,
18:13:07 12 Kirschner and Watson.

18:13:25 13 A. Basely I'm answering your question based
18:13:28 14 on what I have read in this document.

18:13:29 15 Q. Do you have any understanding that it's
18:13:31 16 not contained in that No. 4 as to how that 15
18:13:34 17 million dollar figure was calculated?

18:13:34 18 MS. PAPEZ: Objection. Form.

18:13:41 19 A. Other than this document and the I believe
18:13:43 20 in the I can't be sure but I believe in the
18:13:45 21 complaint document there were also references to
18:13:48 22 what we believe the kickbacks were on some of
18:13:51 23 these fees.

18:13:51 24 BY MS. BODNER:

18:13:56 25 Q. Boyd other than what's contained in this

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18:13:58 1 document and what's contained in the complaint do
18:14:01 2 you have any understanding as to how that 15
18:14:03 3 million dollar figure was arrived at?

18:14:03 4 MS. PAPEZ: Objection. Form.

18:14:07 5 A. No, I don't.

18:14:07 6 BY MS. BODNER:

18:14:08 7 Q. Do you know why the 5 million dollar

18:14:10 8 figure contained in No. 4 is described as a kick

18:14:14 9 back?

18:14:14 10 MS. PAPEZ: Objection. Form.

18:14:19 11 A. My understanding and my definition I guess

18:14:22 12 I would say is Amazon paid money to our

18:14:26 13 development partners and at some point through

18:14:32 14 some series of transactions 5 million 120 dollars

18:14:38 15 was disbursed to both Casey and Carl and I believe

18:14:44 16 Mr. Watson.

18:14:44 17 BY MS. BODNER:

18:14:53 18 Q. Is that your understanding based on

18:14:54 19 reading the complaint in the internal

18:14:57 20 investigation?

18:14:57 21 MS. PAPEZ: Objection. Form.

18:14:58 22 A. Yes.

18:14:58 23 BY MS. BODNER:

18:15:00 24 Q. Do you have any other understanding of

18:15:02 25 that 5 million dollar figure that's not based in

18:15:05 1 the complaint or the internal investigation?

18:15:05 2 MS. PAPEZ: Objection. Form.

18:15:07 3 A. No, I didn't investigate any further.

18:15:07 4 BY MS. BODNER:

18:15:19 5 Q. Did you do any investigation to confirm

18:15:21 6 the accuracy of that 15 million dollar number?

18:15:24 7 MS. PAPEZ: Objection. Form asked and

18:15:26 8 answered?

18:15:26 9 A. No, I did not.

18:15:26 10 BY MS. BODNER:

18:15:30 11 Q. Do you know if Keith Klein was involved

18:15:33 12 this coming up with that figure?

18:15:36 13 A. I don't know if Keith Klein was involved.

18:15:42 14 No.

18:15:43 15 MS. BODNER: If we could take a 10 minute

18:15:46 16 break thousand I need to review so see if I have

18:15:49 17 any final questions it shouldn't be much.

18:15:55 18 MS. PAPEZ: Of course.

18:15:56 19 THE VIDEOGRAPHER: Off the record at 6:15

18:16:02 20 p.m.

18:26:49 21 THE VIDEOGRAPHER: Back on the record at

18:26:51 22 6:26 p.m.

18:26:54 23 MS. BODNER: I have a couple more questions

18:26:56 24 it's shouldn't take long.

18:26:58 25 A. Of course.

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18:26:59 1 Q. Mr. Vonderhaar do you know how much it
18:27:02 2 cost Amazon to build out a shell building that a
18:27:06 3 developer provides to it

18:27:08 4 MS. PAPEZ: Objection. Form?

18:27:10 5 A. I understand roughly that the cost of
18:27:17 6 bidding and construction, yes.

18:27:18 7 Q. Do you have a rough estimate of what it
18:27:21 8 cost Amazon to build out that shell?

18:27:28 9 A. Its on the order of between land
18:27:30 10 acquisition an material and construction its on
18:27:32 11 the order of tens of millions of dollars.

18:27:37 12 Q. What about 5 hundred to 7 hundred million
18:27:41 13 per building seem to be an average cost?

18:27:44 14 A. I think 500, 700 would include the fit out
18:27:50 15 of electrical and mechanical infrastructure is
18:27:53 16 where most of cost is that is only referring to
18:27:55 17 what you called the shell which is the 4 walls on
18:27:59 18 top of the dirt.

18:27:59 19 BY MS. BODNER:

18:28:01 20 Q. Let's breaks down how much does it cost

18:28:04 21 to complete the shell?

18:28:08 22 A. I don't know the specifics. Several

18:28:12 23 million dollars order magnitude.

18:28:19 24 Q. How much does it cost Amazon on average to

18:28:21 25 complete a fit out of a datacenter shell?

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18:28:24 1 A. By fit out if that means all of yule

18:28:26 2 tillty connection connections an infrastructure to

18:28:29 3 make it ready for customers then you're right its

18:28:32 4 on the order of hundred of mill millions of

18:28:37 5 dollars depending on the location of the rsite and

18:28:40 6 the design and capacity.

18:28:41 7 Q. Does 5 hundred to 7 hundred million per

18:28:45 8 fit out seem to be about the average cost?

18:28:50 9 A. That seems a bit high for the average

18:28:53 10 cost. I can't vouch for that. That is our

18:28:57 11 average cost. No.

18:28:58 12 Q. Do you know if Amazon tracks the average

18:29:13 13 cost in any of its databases?

18:29:13 14 MS. PAPEZ: Objection. Form.

18:29:21 15 A. I don't think we track average costs I

18:29:23 16 think from time to time we will query compute

18:29:29 17 average cost by generation of datacenter by one
18:29:34 18 story up or two story to D.C. different design to
18:29:38 19 we will do that as an on needed ad hoc basis I
18:29:43 20 don't know that we're storing average.
18:29:43 21 BY MS. BODNER:
18:29:49 22 Q. I want to go back to the tracking system
18:29:53 23 that we tacked about earlier with respect to
18:29:56 24 Virginia datacenter leases. Does Amazon maintain
18:30:00 25 any sort of document or database that compares

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18:30:04 1 datacenter in Virginia with respect to yield on
18:30:08 2 cost?
18:30:08 3 MS. PAPEZ: Objection. Form.
18:30:15 4 A. We have databases that store that
18:30:18 5 information. I don't know that we have systems or
18:30:21 6 tools that automatically compute and compare we
18:30:28 7 would have to go looking for that data gather the
18:30:31 8 data points and then compare.
18:30:40 9 Q. Do you have any tools that compare the
18:30:42 10 profitability of datacenter in Virginia?
18:30:48 11 A. I cannot point to a single tool. The way

18:30:53 12 we would look at the profitability of our business
18:30:57 13 in the Virginia or IAD region would be through
18:31:01 14 some sort of financial analysis by our financing.

18:31:12 15 Q. Do you recall if that's been done between
18:31:15 16 2018 and 2020 with respect to the Virginia region?

18:31:18 17 MS. PAPEZ: Object to form.

18:31:18 18 A. I'm not aware of a specific analysis or
18:31:21 19 discussion of that during that time period. For
18:31:31 20 clarification that's not in my role as operations,
18:31:35 21 I'm not generally sitting in on the profitability
18:31:38 22 that includes customer revenue usage and then the
18:31:43 23 cost of operations I'm pretty focused on what is
18:31:45 24 my unit cost and scaling the business.

18:31:53 25 Q. If someone at Amazon wants to compare ones

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18:31:56 1 datacenter to another datacenter how did they go
18:31:58 2 about constructing a comparison?

18:32:00 3 A. If the comparison is on a financial basis
18:32:03 4 kind of like you were describing just now they
18:32:05 5 would work through our finance team and our
18:32:08 6 finance partners, our infrastructure finance team,
18:32:14 7 and formulate the questions they want to answer

18:32:16 8 and then our finance team would pull the relevant
18:32:18 9 data from the right sources and pull the analysis
18:32:22 10 to answer the questions. If it was for some other
18:32:24 11 analysis like maybe technical parameters or
18:32:27 12 availability of time then they might come to --.

18:32:36 13 Q. What is the role of reviewing comparisons
18:32:39 14 in the CAR process?

18:32:44 15 A. Reviewing comparisons helps us -- it helps
18:32:48 16 in a couple ways it helps us to answer the
18:32:51 17 question is this a good deal are we getting good
18:32:56 18 value so it find of puts an individual transaction
18:33:00 19 in context with past transaction maybe anticipated
18:33:04 20 future transaction to say how do we evaluate this
18:33:07 21 deal and do we feel good about it or not that's
18:33:11 22 kind of one purpose. The second purpose this
18:33:13 23 doing that on a transaction by transaction basis
18:33:16 24 is overtime we start to acquire the data and
18:33:21 25 relook for trends. Are we noticing an increase in

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18:33:24 1 cost or yield or something like that and that
18:33:26 2 gives us a basis to go out and ask questions about

18:33:31 3 what is it why is it why is it purpose for the
18:33:36 4 long.

18:33:39 5 Q. Do you have any reason to believe that the
18:33:41 6 comparison process did not occur with respect to
18:33:44 7 the Northstar leases?

18:33:45 8 A. No I don't have any reason to believe that
18:33:50 9 it can't to cur because that kind of analysis is
18:33:53 10 at least on a transaction by transaction basis is
18:33:56 11 part of our standard template and analysis of
18:33:59 12 these transactions.

18:34:04 13 Q. Does Amazon still occupy any of the
18:34:09 14 datacenters filled by Northstar?

18:34:09 15 MS. PAPEZ: Objection. Form.

18:34:13 16 A. I cannot speak specifically but given that
18:34:16 17 there were 9 pretty confident that we're in all of
18:34:19 18 most of those 9 datacenter on the build-to-suits.

18:34:24 19 Q. Do you recall if any of those datacenter
18:34:27 20 build by Northstar are profitable for Amazon?

18:34:32 21 A. I cannot speak to the profitability of any
18:34:35 22 one datacenter.

18:34:37 23 Q. Do you know generally speaking sitting
18:34:41 24 here now if any of the datacenter built by star
18:34:45 25 are currently profitable?

18:34:46 1 A. No and that's not how we look at it
18:34:50 2 frankly we don't look at profitability on a per
18:34:53 3 datacenter basis we look at profitability on a per
18:34:57 4 region basis.

18:34:57 5 Q. Can you explain a little more what you
18:35:01 6 mean by that?

18:35:01 7 A. Yeah, what we're determine profitability
18:35:08 8 we want to compare the revenue in a given region
18:35:11 9 like IAD to the underlying costs in a given
18:35:15 10 region. Customer usage is not specific to a DC.
18:35:21 11 Its largely determined by where the customer wants
18:35:25 12 to look in our availability zone if we remember
18:35:30 13 that part of conversation earlier and sometimes
18:35:32 14 some of our larger customers that may have use a
18:35:36 15 hypothetical to illustrate the point but a
18:35:39 16 customer who may have one pricing scheme for a
18:35:42 17 service with a higher margin may be this two or
18:35:47 18 more A Zs but that revenue may not be in a
18:35:53 19 specific DC so look at the profitability of DC
18:35:56 20 level may not factor in the mission an rate I have
18:35:59 21 a plied across customers who may not be in that DC
18:36:03 22 does that help.

18:36:03 23 Q. That does help. Do you track the

18:36:06 24 profitability of individual datacenter in any way?

18:36:11 25 A. I don't believe we do. I'm not aware of

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18:36:14 1 datacenter profitability.

18:36:16 2 Q. Are you aware if the IAD region overall is

18:36:20 3 profitable for Amazon?

18:36:21 4 A. Overall I believe IAD overall is

18:36:28 5 profitable for Amazon.

18:36:29 6 Q. Do you know if IAD has also been a

18:36:35 7 profitable region for Amazon?

18:36:35 8 MS. PAPEZ: Objection. Form.

18:36:40 9 A. I don't know for how long it's been

18:36:42 10 profitable. Generally when we start out

18:36:45 11 especially when we're just starting in a region

18:36:51 12 there's a heavy outlay of capital and it takes a

18:36:55 13 long time to recoupe that upfront capital so my

18:37:00 14 hypothesis is the IAD is profitable for some

18:37:03 15 period of time but it didn't start out that way if

18:37:05 16 you go all the way back to 2010, 2011 even prior

18:37:11 17 2008.

18:37:11 18 Q. Do you think IAD has been profitable since

18:37:14 19 2018?

18:37:14 20 MS. PAPEZ: Objection. Form.

18:37:17 21 A. I think so but I can not be sure.

18:37:17 22 BY MS. BODNER:

18:37:22 23 Q. Who would know that?

18:37:25 24 A. You would have to ask members of our

18:37:28 25 finance team and related service.

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18:37:31 1 Q. Do you know any specific names of folks

18:37:34 2 who would know the answer to that?

18:37:38 3 A. I think the easiest thing to do is start

18:37:41 4 with our legal team and work our way to your G W S

18:37:46 5 CFO finance team and ask who can calculate that

18:37:49 6 data for you. I don't want to name somebody that

18:37:55 7 can't actually do it.

18:38:00 8 Q. Are you aware that Northstar was one of if

18:38:03 9 not the first developer to bring the 7 percentage

18:38:08 10 yield on cost for Amazon?

18:38:08 11 MS. PAPEZ: Objection. Form.

18:38:12 12 A. No, I have not aware until just now that

18:38:14 13 you said that.

18:38:14 14 BY MS. BODNER:

18:38:17 15 Q. Are you aware of Northstar provided one
18:38:20 16 or two story buildings for Amazon?

18:38:20 17 MS. PAPEZ: Objection. Form.

18:38:27 18 A. If I recall in previous review I think
18:38:31 19 there was at least one two story I want to say it
18:38:34 20 was IAD 145 maybe 144. I can't be sure but think
18:38:41 21 that's what I reviewed earlier.

18:38:43 22 Q. Is that your understanding based on
18:38:45 23 documents introduced as exhibits today?

18:38:49 24 A. Yes, specifically the CAR documents that
18:38:52 25 we reviewed earlier in the summary it says we want

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18:38:54 1 to build X datacenter where two story with X
18:38:58 2 amount of capacity unless I'm mistaken I think I
18:39:02 3 read that 144 and 145 is a two story datacenter
18:39:06 4 I'm doing that from memory based on the exhibits
18:39:09 5 that we looked at together.

18:39:10 6 Q. You testified that you reviewed and signed
18:39:12 7 some datacenter leases for Amazon correct?

18:39:15 8 A. I believe that I have via dock sign. Yes.

18:39:19 9 Q. Have you ever renegotiated a datacenter

18:39:23 10 lease for Amazon?

18:39:23 11 MS. PAPEZ: Objection. Form.

18:39:26 12 A. No, I have not.

18:39:28 13 Q. Other than the leases involved in this

18:39:31 14 lawsuit are you aware of any datacenter leases

18:39:34 15 ever being renegotiated by Amazon?

18:39:39 16 MS. PAPEZ: Objection. Form.

18:39:43 17 A. I cannot recall a specific datacenter

18:39:52 18 lease renegotiated I know from time to time my

18:39:55 19 team and I talked about there are terms coming up

18:39:57 20 over the next several years in the several years

18:40:00 21 or in the future and we will renegotiate

18:40:03 22 build-to-suit leases but other than the lease we

18:40:05 23 have talked about I have not been privy to any

18:40:08 24 specific renegotiates.

18:40:08 25 BY MS. BODNER:

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18:40:10 1 Q. What sort of terms that you mentioned

18:40:13 2 would be coming up in the future that you mention

18:40:15 3 with your team?

18:40:17 4 A. Some of these leases I recall have ten or

18:40:21 5 15 year terms some of the older leases that we

18:40:25 6 signed. And I can't say that they're
18:40:28 7 build-to-suit it may be colo that I'm thinking of
18:40:32 8 if they would have had ten or 15 year terms that
18:40:35 9 would mean things that we engaged in 2010 or 2011
18:40:39 10 the they were ten year would be coming up soon or
18:40:42 11 emanently if they were 15 year they would be
18:40:44 12 coming up in the next 3 to 4 years roughly.

18:40:47 13 Q. Were you explaining renegotiates these
18:40:49 14 renews or renegotiating initial leases that Amazon
18:40:52 15 entered?

18:40:53 16 A. Sorry. I am talking about renew as and
18:41:00 17 or -- I'm talking about renews not renegotiates
18:41:05 18 with the purpose of changing any lease I apologize
18:41:09 19 if I confused the two.

18:41:11 20 Q. Have you ever renegotiated the economic
18:41:13 21 terms of new build-to-suit lease that Amazon
18:41:15 22 entered?

18:41:15 23 MS. PAPEZ: Objection. Form.

18:41:19 24 A. No I'm not aware and I don't recall and I
18:41:23 25 wasn't involved in any of that.

18:41:23 1 BY MS. BODNER:

18:41:26 2 Q. Have you ever bought a house?

18:41:29 3 A. Yes.

18:41:31 4 Q. Have you ever heard of a sell or buyer who

18:41:34 5 pay as commission per written agreement for a

18:41:37 6 house coming back after closing and saying the

18:41:39 7 commission they paid was too high?

18:41:43 8 A. No.

18:41:44 9 Q. Do you know what makes datacenter any

18:41:53 10 different?

18:41:53 11 MS. PAPEZ: Objection. Form.

18:41:56 12 A. Yes in this case if people charged with

18:41:59 13 negotiating and sourcing these properties were

18:42:05 14 Amazon employees who were expected follow or code

18:42:09 15 of conduct and disclose all of the relevant fees

18:42:13 16 and costs associated with that purchase

18:42:16 17 acquisition and in this case those folks failed in

18:42:18 18 that duty and therefore we made decisions with

18:42:22 19 incomplete or imperfect or misleading information

18:42:26 20 and that is not how I engaged in buying my own

18:42:30 21 personal properties in the past.

18:42:30 22 BY MS. BODNER:

18:42:38 23 Q. You don't have any personal knowledge as

18:42:40 24 to what you just explained correct?

18:42:43 25 MS. PAPEZ: Objection. Form misstates

18:42:46 1 testimony?

18:42:47 2 A. The personal I like to have is based on a
18:42:51 3 review of the findings and investigation that we
18:42:54 4 discussed previously.

18:42:54 5 BY MS. BODNER:

18:42:57 6 Q. Do you believe that Amazon has the proper
18:42:59 7 controls and oversight in place to guard against
18:43:04 8 kickbacks in an organization?

18:43:04 9 MS. PAPEZ: Objection. Form.

18:43:07 10 A. I do. I do believe we have proper
18:43:09 11 controls. One thing that we expect is all the
18:43:13 12 people that we employed that are engaged was
18:43:18 13 including or real estate transaction manager honor
18:43:21 14 our code of conduct and agree to conduct their
18:43:24 15 business truthfully honestly transparently and
18:43:28 16 make sure that they disclose anything that could
18:43:31 17 impair or compromise their judgment and so in this
18:43:35 18 case I believe we had the proper controls but
18:43:39 19 because the informations that provided was
18:43:42 20 incomplete and misleading an in the the process
18:43:45 21 itself was manipulated by people who understood

18:43:48 22 exactly how we execute the process means that the
18:43:50 23 process itself was fraudulent and so I could not
18:43:54 24 execute my duty and make an informed decision
18:43:58 25 because I didn't have visibility to the things

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18:44:00 1 that were going on behind the screen.
18:44:05 2 Q. How do the controls that Amazon has in
18:44:08 3 base place to provide you with a process you need
18:44:11 4 to ensure the process is not manipulated?
18:44:14 5 MS. PAPEZ: Objection. From inch it starts
18:44:15 6 with a foundation of our employees the people we
18:44:17 7 inemploy and the understanding that we all have a
18:44:20 8 duty to act on on behalf of the company first not
18:44:24 9 ourselves or others and that we're going to
18:44:26 10 disclose any relationships that may affect or
18:44:29 11 impair or compromise the value or brand for
18:44:33 12 Amazon. It starts with that and if we can't rely
18:44:36 13 on people to provide complete and honest
18:44:39 14 information it doesn't matter how much different
18:44:41 15 controls we put in place at our scale we're going
18:44:44 16 to have to rely on those people to do the right

18:44:47 17 thing?

18:44:50 18 Q.

18:44:51 19 MS. BODNER: Have any rules or procedures

18:44:55 20 been put in place since Amazon's internal

18:44:58 21 investigation with respect to -- strike that. Has

18:45:04 22 Amazon implemented any new rules or procedures to

18:45:07 23 guard against kickbacks since its internal

18:45:10 24 investigation into the allegations in this case.

18:45:13 25 MS. PAPEZ: Objection. Form?

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18:45:15 1 A. I'm not aware of any specific changes we

18:45:18 2 have made regarding think of against kickbacks.

18:45:22 3 No. Its at the end of day we're still going to

18:45:25 4 rely on Amazon to gather information and present

18:45:29 5 it truthfully honestly full disclosure so that

18:45:32 6 people like me and finance and others can apply

18:45:35 7 judged and make a decision on behalf of Amazon.

18:45:38 8 I'm not aware of any plausible mechanism we could

18:45:42 9 put in place to guard against lying an desiteful

18:45:47 10 behavior.

18:45:47 11 BY MS. BODNER:

18:45:50 12 Q. Outside of what you have read in the

18:45:51 13 complaint did you ever have any reason to believe
18:45:53 14 that Casey Kirschner was not providing you
18:45:57 15 complete and accurate information?

18:45:57 16 MS. PAPEZ: Objection. Form.

18:46:01 17 A. No. I had no reason to believe Casey was
18:46:05 18 providing misleading information.

18:46:05 19 BY MS. BODNER:

18:46:10 20 Q. Outside whatever you read in the
18:46:11 21 complaint did you have have any reason to believe
18:46:13 22 that Carl Nelson was not providing you complete an
18:46:17 23 accurate information?

18:46:17 24 MS. PAPEZ: Objection. Form.

18:46:18 25 A. No, I did not I believe what Carl was

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18:46:23 1 providing when he was employed here at Amazon as a
18:46:28 2 real estate transaction manager was accurate an
18:46:29 3 complete information.

18:46:32 4 MS. BODNER: No further questions for me
18:46:33 5 thank you so much for your time I'm not sure if
18:46:35 6 Mr. Little has additional clean up or follow-up.

18:46:39 7 THE WITNESS: Yes, ma'am.

18:46:41 8 MR. LITTLE: Do you have any questions on

18:46:43 9 behalf of Amazon?

18:46:44 10 MS. PAPEZ: I may have one issue if you

18:46:47 11 don't mind taking a short break I would like to go

18:46:50 12 back over my notes do you have anything further

18:46:53 13 Alex.

18:46:55 14 MR. LITTLE: I do but it will be less than

18:46:57 15 ten minutes.

18:46:59 16 MS. PAPEZ: Do you want to go ahead with

18:47:00 17 that that now.

18:47:00 18 REDIRECT EXAMINATION BY DEFENDANT CARLETON NELSON

18:47:00 19 BY MR. LITTLE:

18:47:03 20 Q. Mr. Vonderhaar, you just talked about the

18:47:06 21 difficulty of process where you have incomplete or

18:47:08 22 inperson or missing information do you recall that

18:47:11 23 testimony.

18:47:13 24 A. Just now yes.

18:47:14 25 Q. I want to turn your attention to exhibit

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18:47:17 1 CV 20 its document 22. It's a question you were

18:47:23 2 asked about answer 18 the answer to interrogatory

18:47:27 3 18. If you turn your attention to the top of page

18:47:31 4 17 sorry top of page 7 it appears to be the
18:47:36 5 information you provided about what you described
18:47:38 6 as the 17.7 million dollars in damages arising out
18:47:42 7 of the sale for the purchase from nova W P C and
18:47:47 8 Amazon's subsequent purchase price. Do you see
18:47:49 9 that part of your answer in interrogatory?

18:47:53 10 MS. PAPEZ: Objection. Form.

18:47:56 11 MR. LITTLE: I'm trying to direct your
18:47:58 12 attention to where we are in the document.

18:47:59 13 A. I see that part this have document I don't
18:48:01 14 recall in that very recent answer that I had that
18:48:03 15 I was referring to any specific amounts
18:48:05 16 identification talking about the integrity of our
18:48:07 17 process.

18:48:07 18 Q. I'm using that as a reference. We're
18:48:09 19 going to talk now about jumping back into that
18:48:12 20 particular topic in that answer it says the
18:48:16 21 parenthetical that there was approximately 5
18:48:18 22 million as this amount that was paid in kickbacks
18:48:21 23 to defendant Watson. Do you see that ass part of
18:48:23 24 your answer that that interrogatory?

18:48:24 25 MS. PAPEZ: Objection. Form just for the

18:48:28 1 record you keep saying Chris's answer. I don't
18:48:30 2 know if you mean Chris personally or the company
18:48:32 3 but his verification is on on behalf of company
18:48:35 4 for this document.

18:48:35 5 MR. LITTLE: I understand and he answered
18:48:36 6 questions about how you clarified that to the
18:48:39 7 extent that you answer that you verified, I'll say
18:48:41 8 it that way.

18:48:44 9 MS. PAPEZ: Thank you.

18:48:44 10 BY MR. LITTLE:

18:48:46 11 Q. Do you see that part of answer you
18:48:47 12 verified.

18:48:47 13 A. Yes, to the best of my ability and based
18:48:50 14 on the my review of the documents and records and
18:48:52 15 information known to Amazon presented to me by
18:48:58 16 other Amazon people.

18:48:58 17 BY MR. LITTLE:

18:49:00 18 Q. Are you aware that the 5 million dollars
18:49:01 19 that is mentioned in this paragraph was
18:49:05 20 transferred pursuant to that settlement agreement
18:49:07 21 that was mediated by state Supreme Court justice?

18:49:11 22 MS. PAPEZ: Objection. Form.

18:49:13 23 A. No.

18:49:13 24 BY MR. LITTLE:

18:49:16 25 Q. You're not aware there were lawyers

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18:49:18 1 representing both Northstar and Brian Watson and

18:49:22 2 will -- Kyle Ramsetter with connection to this 5

18:49:26 3 million dollar transfer?

18:49:26 4 MS. PAPEZ: Objection. Form.

18:49:29 5 A. No I'm not privy to that no.

18:49:29 6 BY MR. LITTLE:

18:49:32 7 Q. Are you surprised that you don't have that

18:49:34 8 information given the stage of the case that we're

18:49:37 9 in presently?

18:49:37 10 MS. PAPEZ: Objection. Form.

18:49:39 11 A. No, not particularly.

18:49:39 12 BY MR. LITTLE:

18:49:41 13 Q. Would you believe that a state Supreme

18:49:45 14 court judge or mediator would preside over a

18:49:49 15 proceeding that led to a kick back?

18:49:51 16 MS. PAPEZ: Objection. Form.

18:49:53 17 A. I guess if you say so I don't know what

18:49:56 18 the details or circumstances were.

18:49:56 19 BY MR. LITTLE:

18:49:58 20 Q. If I represent to you the mediation was
18:50:00 21 mediated by a former judge that led to the payment
18:50:03 22 you have listed here as is a kick back would you
18:50:08 23 have reason to believe that the judge would be
18:50:09 24 involved with a kick Wac of this sort that you
18:50:12 25 have described on page 7 or that your company has

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18:50:16 1 described on page 7?

18:50:16 2 MS. PAPEZ: Objection. Form.

18:50:19 3 A. No I would not -- I would find it
18:50:22 4 surpriseing if a judge is involved in a sort of
18:50:24 5 kick back so I would have a hard time believing
18:50:27 6 that but without any of the other details about
18:50:30 7 what you're describing it's hard for though to
18:50:32 8 change my point view or opinion.

18:50:35 9 Q. Is it fair to say that you had incomplete
18:50:37 10 information about this transaction at the present
18:50:41 11 time?

18:50:41 12 MS. PAPEZ: Objection. Form.

18:50:41 13 A. No, I don't feel that way I have been
18:50:44 14 presented with information that has been gathered

18:50:46 15 diligently by people who investigated this case
18:50:50 16 and to the best of my ability I'm representing my
18:50:53 17 understanding of that information on on behalf of
18:50:57 18 the company.

18:50:57 19 Q. How the form of the kick back the 5
18:50:59 20 million dollars that you verified in this answer
18:51:01 21 take place according to the information that was
18:51:06 22 presented to you?

18:51:06 23 MS. PAPEZ: Objection. Form.

18:51:08 24 A. I'm not going to be able to quote all of
18:51:11 25 the specific dates an times an how that kick back

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18:51:14 1 occurred. What I have rerued in the investigation
18:51:18 2 is that Amazon paid money to developer entities
18:51:23 3 that we have discussed and some part of that money
18:51:26 4 that Amazon paid I don't know through what entitys
18:51:29 5 or financing companies necessarily but some part
18:51:31 6 of what we paid and we that we intended to be paid
18:51:35 7 based on represent and other fees incurred in the
18:51:38 8 transaction found its way through various
18:51:41 9 companies back to Casey Kirk and Carl Nelson.
18:51:41 10 BY MR. LITTLE:

18:51:46 11 Q. And you think that's what happened with
18:51:47 12 respect to the whites peek transaction where Nova
18:51:51 13 WPC purchase property for 98.67 million?

18:51:57 14 MS. PAPEZ: Objection. Form.

18:51:58 15 A. I don't know if it happened with that
18:51:59 16 specific property I'm trying to -- there were
18:52:01 17 build-to-suit transactions and then there were the
18:52:03 18 two acquisitions.

18:52:03 19 BY MR. LITTLE:

18:52:07 20 Q. You understand that the one we're
18:52:08 21 references here is a direct purchase acquisition
18:52:11 22 correct based on the answer that you verified
18:52:14 23 here?

18:52:14 24 MS. PAPEZ: Objection. Form.

18:52:16 25 A. Looking at the top of page 7 and reference

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18:52:19 1 B, yes, it appears to be a direct purchase.

18:52:22 2 Q. How did a kick back occur in our
18:52:26 3 understanding and you verified under oath in a
18:52:28 4 lawsuit that cost these defendants hundreds of
18:52:30 5 thousands of dollars to defend occur?

18:52:30 6 MS. PAPEZ: Objection. Form.

18:52:35 7 A. The -- I don't know who funded the kick
18:52:38 8 back specifically, I know that we've paid for this
18:52:42 9 purchase and this property and some part of that
18:52:45 10 money irrespective of whose hands it went through
18:52:48 11 or what entities it went through, based on the
18:52:51 12 results of this investigation found its way into
18:52:54 13 two of our former employees which violates our
18:52:58 14 code of conduct because they had a duty to
18:53:00 15 disclose that they were going to profit personally
18:53:03 16 from this transaction.

18:53:03 17 BY MR. LITTLE:

18:53:07 18 Q. How did the kick back occur with respect
18:53:09 19 to Mr. Watson that you have verified he harmed
18:53:14 20 your company by 5 million dollars?

18:53:14 21 MS. PAPEZ: Objection. Form.

18:53:17 22 A. Again I don't know whose hands or what
18:53:19 23 entities in order and on what dates those moneys
18:53:23 24 transited on its way to Mr. Watson but place based
18:53:27 25 on the result of investigation presented to me

18:53:29 1 some amount of money was also sent directly to

18:53:34 2 Mr. Watson as a result of this transaction.

18:53:34 3 BY MR. LITTLE:

18:53:39 4 Q. What is your understanding of why it would
18:53:40 5 be a cake back for Mr. Watson to receive money in
18:53:44 6 connection with this transaction?

18:53:44 7 MS. PAPEZ: Objection. Form.

18:53:48 8 A. From where I sit as an adjudicator in your
18:53:53 9 CAR process somebody reviewing the details none of
18:53:55 10 that information about Casey Carl or Mr. Watson
18:53:58 11 was disclosed that they were going to receive
18:54:01 12 personally receive money as a result of our
18:54:04 13 transactions.

18:54:04 14 BY MR. LITTLE:

18:54:06 15 Q. What makes you belief it was determined
18:54:08 16 they were going to southeast money when the CAR
18:54:10 17 process was on going to?

18:54:10 18 MS. PAPEZ: Objection. Form.

18:54:14 19 A. There was not being in the CAR process at
18:54:16 20 the time we reviewed these transactions that
18:54:20 21 indicated any of these were going to receive
18:54:21 22 money.

18:54:21 23 Q. Was there any reason to believe that there
18:54:23 24 was any reason for anyone to believe they were
18:54:26 25 going to receive money at the time you believe the

18:54:31 1 information should have disclosed?

18:54:31 2 MS. PAPEZ: Objection. Form.

18:54:32 3 A. I think I understand the question I would

18:54:34 4 say at the time we were reviewing these

18:54:37 5 transactions the CAR there was nothing in the CARs

18:54:43 6 that indicated that these individuals were going

18:54:46 7 to receive personally receive any payments of any

18:54:49 8 kind and had had that --

18:54:51 9 Q. Write question?

18:54:53 10 A. Had that been disclosed the deal would

18:54:55 11 have been off the table.

18:54:56 12 Q. You understand that you can't disclose

18:54:58 13 information that doesn't exist, correct?

18:54:59 14 MS. PAPEZ: Objection. Form.

18:55:01 15 A. If what you're saying you can't make up

18:55:06 16 stuff to disclose then yeah I agree with you.

18:55:08 17 Q. Ewe if information doesn't yet exist you

18:55:11 18 can't predict what the information is the future

18:55:13 19 is going to, be correct; you don't expect your

18:55:16 20 transaction manager to predict the future, do you?

18:55:16 21 MS. PAPEZ: Objection. Form.

18:55:19 22 A. No, I don't expect them to predict the
18:55:22 23 future but I do expect them to disclose their
18:55:27 24 intent.
18:55:27 25 BY MR. LITTLE:

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18:55:30 1 Q. If at the time the CAR process took place
18:55:32 2 there was never any intent of on behalf of Brian
18:55:34 3 Watson to receive any money from a deal he knew
18:55:37 4 nothing about how do you believe that information
18:55:40 5 should have been placed into the CAR process?

18:55:40 6 MS. PAPEZ: Objection. Form.

18:55:46 7 A. I don't know that I agree or believe your
18:55:48 8 premise that he knew nothing about I.

18:55:51 9 Q. So what information do you have that he
18:55:54 10 knew anything about that transaction
18:55:55 11 Mr. Vonderhaar?

18:55:55 12 MS. PAPEZ: Objection. Form.

18:55:59 13 A. The information I have now based on the on
18:56:02 14 the investigation has indicated that he had -- he
18:56:05 15 Casey Carl intended to property from these
18:56:09 16 transactions.

18:56:09 17 Q. You say these transaction I'm talking

18:56:11 18 about the specific transaction and you have not
18:56:13 19 been able to identify any particular information
18:56:15 20 is to let me direct your attention to that is
18:56:18 21 there any particular information that you have and
18:56:20 22 learned at any capacity that led you to believe
18:56:22 23 that Mr. Watson intended when this transaction
18:56:26 24 occurred to receive \$5 million?

18:56:26 25 MS. PAPEZ: Objection. Form.

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18:56:30 1 A. No. I don't know what his intent was at
18:56:36 2 the time of this transaction.

18:56:37 3 Q. Would it surprise you to know Mr. Watson
18:56:40 4 had no knowledge this transaction was even taking
18:56:42 5 place when it occurred?

18:56:42 6 MS. PAPEZ: Objection. Form.

18:56:45 7 A. I don't know that I'm surprised by it but
18:56:48 8 okay.

18:56:49 9 Q. Would it surprise you to know after he
18:56:52 10 learn of transaction that he was concerned his
18:56:55 11 employee had been engaged in a transaction without
18:57:02 12 telling his employer?

18:57:02 13 MS. PAPEZ: Objection. Form.

18:57:04 14 A. I don't know many details about that and
18:57:06 15 what conversations took place and who is surprised
18:57:09 16 by what.

18:57:09 17 BY MR. LITTLE:

18:57:11 18 Q. So you're not aware that lawyers aren't
18:57:13 19 acting on Mr. Watson's behalf sent a demand lets
18:57:18 20 to Mr. Kyle Ramsetter and Buck related to this
18:57:22 21 transaction do you?

18:57:22 22 A. I'm not aware of that letter or any letter
18:57:25 23 like that no.

18:57:25 24 Q. Are you aware you're not aware that there
18:57:29 25 was then a mediation between counsel and

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18:57:32 1 Mr. Watson and Kyle Ramsetter and Mr. Cammonson
18:57:36 2 about that dispute?

18:57:37 3 A. No I'm not -- no, I'm not aware of that
18:57:43 4 and honestly -- hold on in my role in the CAR
18:57:49 5 process right I am look at the breast of Amazon
18:57:57 6 and our employees who are agents of our company
18:57:59 7 and when these CAR transactions take place I'm
18:58:05 8 not -- I don't engage in what star or what

18:58:09 9 Mr. Watson or notion folks do. What I care about
18:58:12 10 is do our employees work within the bounds of our
18:58:16 11 process do they provide truthful and honest
18:58:20 12 information do they act on behalf of company and
18:58:23 13 in this case are they enbanals solely the our
18:58:26 14 behalf or not on on behalf of to over partner as
18:58:29 15 family member in check cuting their duties to have
18:58:31 16 company so I'm not aware of and I'm not -- I did
18:58:34 17 not dive into what conversations took place
18:58:37 18 between Mr. Watson and the rest of the folks.

18:58:37 19 BY MR. LITTLE:

18:58:40 20 Q. Mr. Vonderhaar the things that I'm
18:58:43 21 describes to you all happened after the CAR
18:58:44 22 process transpired and so is it fair to say you
18:58:48 23 were not aware that your lawyers at Amazon had a
18:58:51 24 copy of the mediation statement where the two
18:58:53 25 sides mediated in question. You they ever seen

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18:58:56 1 that document?

18:58:56 2 MS. PAPEZ: Objection. Form.

18:58:59 3 A. No I have not reviewed any mediation.

18:59:01 4 Q. So you were unaware there was a mediation
18:59:04 5 that led to this 5 million dollar payment that you
18:59:06 6 verified under oath it was a kick back?

18:59:06 7 MS. PAPEZ: Objection. Form.

18:59:10 8 A. I verify under oath as per these documents
18:59:13 9 that I have seened to the best of hi ability and
18:59:16 10 based on information presented to me I have some
18:59:18 11 results of our investigation that as a
18:59:20 12 representative of the Amazon that I believe these
18:59:23 13 things occurred and are to be true.

18:59:23 14 BY MR. LITTLE:

18:59:26 15 Q. After receiving additional information
18:59:29 16 such as the timing of payments, how they were
18:59:32 17 made, who made them, the nature of the individuals
18:59:36 18 involved, if received additional information to
18:59:40 19 bring a more complete picture of this transaction
18:59:43 20 do you think you would change your view as to
18:59:46 21 whether or not that 5 million dollar payment was
18:59:48 22 kick back?

18:59:48 23 MS. PAPEZ: Objection. Form.

18:59:51 24 A. As we discussed little bit or explored a
18:59:53 25 little bit earlier, think I'm a reasonable person

18:59:56 1 and if somebody presented me with corrections or
19:00:00 2 new facts or new information then I would be open
19:00:04 3 and objective to that new facts an information and
19:00:08 4 perhaps just my opinion or point of view or
19:00:10 5 decisions acourting.

19:00:12 6 Q. You would certainly want to make sure any
19:00:13 7 information you verified with the court would be
19:00:16 8 correct is that fair to say?

19:00:16 9 MS. PAPEZ: Objection. Form.

19:00:19 10 A. Yes, I want to provide correct and
19:00:22 11 accurate information to the court and I believe
19:00:24 12 the information I believe be presented by my
19:00:26 13 associates at Amazon is truthful and accurate
19:00:30 14 information and based on my understanding of that
19:00:33 15 information that's reflected many my testimony.

19:00:35 16 Q. Well at this time base on fact that you
19:00:37 17 though I represented to you there was a mediation
19:00:40 18 involving a judge there are lawyers involved
19:00:43 19 mediation statement that your lawyers have they
19:00:45 20 have never shown you do you believe you have all
19:00:48 21 the relevant information related to this
19:00:50 22 transaction to make a determination about whether
19:00:52 23 or not it was a kick back?

19:00:52 24 MS. PAPEZ: Objection. Form.

19:00:56 25 A. I'm comfortable with the information I

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19:00:59 1 have been presented. The new information you're
19:01:01 2 introducing without a whole lot of other details
19:01:04 3 or context doesn't sway me much frankly.

19:01:08 4 Q. Why not?

19:01:09 5 A. I have not reviewed or discussed any of
19:01:11 6 the details other than what you have just
19:01:13 7 presented and the fact this there are other
19:01:15 8 lawyers and jumps involve doesn't make any of that
19:01:19 9 right or appropriate or relevant in this case
19:01:22 10 because I don't know how they can think.

19:01:23 11 Q. Are those thing you would want to know
19:01:26 12 more about to make a representation to the court
19:01:28 13 that the transaction was a kick back?

19:01:28 14 MS. PAPEZ: Objection. Form.

19:01:32 15 A. If that information was presented to our
19:01:37 16 investigator as counsel and we talked about it and
19:01:40 17 it was deemed that that was relevant and important
19:01:43 18 to how we proceed then yeah I would expect they
19:01:45 19 will to bring that forward so that I could

19:01:48 20 completely and accurately represent Amazon
19:01:50 21 position in this documents an these proceedings.
19:01:54 22 Q. Do you have any reason to know why you
19:01:57 23 weren't provided such?
19:01:57 24 MS. PAPEZ: Objection. Form.
19:01:59 25 A. No I do not.

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19:01:59 1 Q. You understand do you not a build-to-suit
19:02:10 2 transaction that Amazon is not responsible for
19:02:12 3 paying any of the development costs of a
19:02:14 4 development other than its payment of rent
19:02:20 5 correct?
19:02:20 6 MS. PAPEZ: Objection. Form.
19:02:22 7 A. We pay rent I believe my understanding
19:02:26 8 this these transaction is that rent has to cover
19:02:29 9 fees an expenses of the developer unless its
19:02:33 10 called out specifically and we have visibility to
19:02:36 11 it we can that as part of deal.
19:02:39 12 Q. The out lay of Amazon is in the form of
19:02:41 13 rent exclusively is that fair to say?
19:02:41 14 MS. PAPEZ: Objection. Form.
19:02:45 15 A. I cannot say exclusively its in the out

19:02:49 16 lay of rent. I believe we execute add lot of
19:02:53 17 transactions and some of them have been different
19:02:55 18 commercial structures generally speaking we pay
19:02:58 19 rent yes I'm not going to say there weren't deals
19:03:01 20 elsewhere where we paid rent an some other fees we
19:03:05 21 disclosed reviewed an approved.

19:03:09 22 Q. You have testified a number of times today
19:03:12 23 about the idea of expecting your employees to
19:03:17 24 operate with good judgement is that fair to say?

19:03:17 25 MS. PAPEZ: Objection. Form.

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19:03:22 1 A. Yes.

19:03:22 2 BY MR. LITTLE:

19:03:24 3 Q. In that particular you have pointed to the
19:03:26 4 concerns about transparency and employees not
19:03:31 5 providing information about conflicts of interest
19:03:33 6 they may have is that a fair summary of parts of
19:03:36 7 your testimony?

19:03:38 8 A. Yes.

19:03:38 9 Q. Are there other typeful of ways in which
19:03:43 10 an employees judgment can be hampered in the

19:03:47 11 making of decisions around spending of the CAR

19:03:50 12 process at Amazon?

19:03:51 13 MS. PAPEZ: Objection. Form?

19:03:59 14 Q. One of the ways that comes to mind is

19:04:02 15 they've improper gifts going back to your truck

19:04:05 16 for example receiving gifts impair my judgement

19:04:09 17 might favor a transaction that's not the best

19:04:12 18 option or transaction for Amazon?

19:04:15 19 Q. Would be an alcoholic operate the same way

19:04:18 20 impair an employee's judgment to make interest?

19:04:18 21 MS. PAPEZ: Objection. Form.

19:04:24 22 A. As a hypothetical I suppose there is

19:04:26 23 circumstances where somebody with an alcohol

19:04:29 24 addiction or problem judgment may be impaired and

19:04:33 25 might compromise their behavior and decisions on

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19:04:37 1 behalf of Amazon.

19:04:37 2 Q. Do those same consequences stem from

19:04:41 3 somebody having a drug addiction?

19:04:41 4 MS. PAPEZ: Objection. Form.

19:04:44 5 A. Yes much like what I described in alcohol,

19:04:47 6 yes, I can see that.

19:04:47 7 Q. Do those same type of consequences flow
19:04:51 8 from someone having and undisclosed marital
19:04:53 9 affair?

19:04:53 10 MS. PAPEZ: Objection. Form.

19:04:54 11 A. As a hypothetical I suppose in some
19:04:57 12 circumstances that could impair their judgment
19:05:00 13 compromise their decision making yes.

19:05:03 14 Q. Does Amazon have any policies that you're
19:05:06 15 aware of that require individuals to disclose if
19:05:10 16 they have alcoholism, drug addiction or in the
19:05:13 17 course of marital affair?

19:05:13 18 MS. PAPEZ: Objection. Form.

19:05:17 19 A. We don't require people to disclose those
19:05:21 20 aspects to of their personal life. However I will
19:05:24 21 point back to our code of conduct that does put
19:05:26 22 the onus on employees to disclose any
19:05:30 23 relationships or other mats that may impair their
19:05:32 24 judgment.

19:05:33 25 Q. Because there's no specific policy related

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19:05:35 1 to the disclosure of alcoholism, correct?

19:05:38 2 MS. PAPEZ: Objection. Form asked and

19:05:41 3 answered?

19:05:41 4 A. I'm in the aware of a specific policy

19:05:44 5 around alcoholism.

19:05:44 6 BY MR. LITTLE:

19:05:46 7 Q. There's no specific policy that AWS has

19:05:49 8 prior disclosure of drug addiction is there?

19:05:53 9 MS. PAPEZ: Objection. Form asked and

19:05:55 10 answered?

19:05:55 11 A. I'm not aware of a specific policy or

19:05:58 12 expectation around drug addiction no.

19:05:58 13 BY MR. LITTLE:

19:06:01 14 Q. And there's likewise not a specific policy

19:06:04 15 that AWS has that wire requires employee to

19:06:08 16 disclose if they're having an extra marital

19:06:12 17 affair?

19:06:12 18 MS. PAPEZ: Objection. Form Object to form?

19:06:14 19 A. Same answer I'm not aware of any specific

19:06:17 20 policy or expectation to disclose extra marital

19:06:20 21 affairs.

19:06:20 22 BY MR. LITTLE:

19:06:21 23 Q. If all three of those circumstances could

19:06:25 24 lead and employee to exercise poor judgment to the

19:06:28 25 detriment of Amazon why do you see that Amazon not

19:06:31 1 have such policies.

19:06:33 2 MS. PAPEZ: Objection. Form calls for
19:06:36 3 speculation.

19:06:36 4 A. The difference for me is that those are I
19:06:43 5 would say confidential and personal situations
19:06:47 6 that may impair someone judgment. That's very
19:06:50 7 different from routine business transactions where
19:06:54 8 the expectations are very clear; how we evaluate
19:07:00 9 or make a decision for an transaction, what
19:07:01 10 information needs to be disclosed, why it's
19:07:04 11 important that that information is disclosed to
19:07:06 12 make a good business decision it's hard for me to
19:07:09 13 compare somebody misleading or misrepresenting
19:07:13 14 something and withholding information versus
19:07:16 15 somebody who fines themselves in a very
19:07:18 16 unfortunate situation.

19:07:20 17 Q. If an individual is having a bra marital
19:07:23 18 affair with a vendor would you expect them to
19:07:26 19 disclose that to Amazon?

19:07:26 20 MS. PAPEZ: Objection. Form.

19:07:29 21 A. If that person was engaged in a
19:07:31 22 relationship request that vendor then yes if they

19:07:36 23 are dealing directly with that vendor and
19:07:38 24 connecting Amazon business with our vendoring I
19:07:42 25 would expect somebody to disclose that because

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19:07:44 1 that could compromise their judgment and our
19:07:47 2 decision making an at least have an opportunity to
19:07:49 3 know that that's occurring so we can evaluate
19:07:52 4 whether we want to have maybe some execute that
19:07:55 5 transaction it gives us an opportunity to take
19:07:58 6 action to protect Amazon and perhaps the employee.

19:08:02 7 Q. And for purpose of the that question your
19:08:07 8 state they should disclose that. I'm going to
19:08:09 9 turn back to the code of conduct that we've been
19:08:11 10 talking at previously today?

19:08:12 11 A. Okay.

19:08:13 12 Q. I believe its document 12 Exhibit 11?

19:08:23 13 A. Yes.

19:08:24 14 Q. What provision do you believe requires an
19:08:27 15 employee to disclose a relationship of that sort
19:08:31 16 if they're having extra marital affair with a
19:08:34 17 vendor?

19:08:36 18 MS. PAPEZ: Objection. Form I don't
19:08:38 19 remember?
19:08:38 20 A. On the first and while it doesn't say
19:08:43 21 extra marital affair what it does say is conflict
19:08:46 22 of interest exists when an employee's personal
19:08:49 23 interest interferes with the best interest of
19:08:52 24 Amazon. I believe that could come into play if we
19:08:55 25 have an employee who is in a relationship with a

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19:08:58 1 vendor. I would also point to later down on page
19:09:03 2 1 the last paragraph that says employees should
19:09:09 3 attempt to avoid conflicts of interest an employee
19:09:13 4 should belief conflict of interest exists should
19:09:16 5 notify the legal department. In your example the
19:09:19 6 onus is on the employee to disclose they're in
19:09:22 7 some sort of a relationship to the legal
19:09:27 8 department to legal and Amazon has an opportunity
19:09:29 9 to decide if that constitute as conflict of
19:09:32 10 interest and if Amazon is in any sort of jeopardy
19:09:36 11 in terms of the business of the two of those
19:09:38 12 people are conducting.
19:09:40 13 Q. Continue this hypothetical you point today

19:09:44 14 conflict of definition of a conflict of interest
19:09:48 15 existing when a employees personal interest
19:09:50 16 appears the best interest of Amazon to continue if
19:09:53 17 there's an employee in a extra marital affair with
19:09:55 18 a vendor and as a result that vendor is willing to
19:09:57 19 give Amazon substantially discounted pricing
19:10:00 20 because that vendor believes its in his or her
19:10:04 21 best interest do you believe that would constitute
19:10:06 22 a conflict of interest under that provision you
19:10:10 23 previously read?

19:10:10 24 MS. PAPEZ: Objection. Form.

19:10:14 25 A. Yes. And to carry on your hypothetical

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19:10:19 1 who is to say that while we may get favorable
19:10:22 2 pricing while they're in the relationship things
19:10:24 3 may turn the other direct when they're no longer
19:10:27 4 in that relationship then Amazon would be harmed.
19:10:31 5 The other thing I did miss the other reference
19:10:33 6 back to your previous question. It calls pretty
19:10:37 7 out specifically under 2 conflicts of interest
19:10:40 8 sentence that begins for example. For example a

19:10:42 9 conflict of interest may occur when an employee or

19:10:45 10 a family member receives a personal benefit as a

19:10:48 11 result of the employees position of
https://urldefense.proofpoint.com/v2/url?u=http-3A__Amazon.com&d=DwIGAg&c=wT9hcAyWecHwFHLf1ZE30A&r=IcGIiwhuRpB-tDQgFX5Skg_KofTBdhQVVzsEs6QIsWA&m=7Q1BvWI7CROq7C09Ke2YNx1s9s7-Bp1AHWDY7ASyp8FRwVCq_uIG_fiQLc8Bt2u3&s=u6r4au_Rld3MPCpD_HgT6dhrJVob_JsWFjoLYW2X48c&e= and

19:10:51 12 in an extra marital affair hypothetical case while

19:10:55 13 It may not be a family member, it's a close

19:10:59 14 personal relationship, is the way I'm taking that,

19:11:00 15 in which case that could create that conflict of

19:11:03 16 interest so it think it calls out why that's

19:11:06 17 inappropriate.

19:11:08 18 Q. Does it could it out specifically or does

19:11:11 19 it call it out pretty specifically?

19:11:11 20 MS. PAPEZ: Objection. Form.

19:11:15 21 A. I'm going to go say specifically because

19:11:17 22 the next sentence say as conflict of interest may

19:11:19 23 also rice from an employee's business or personal

19:11:22 24 relationship with a customer, a supplier, a

19:11:26 25 competitor, a business partner or other employee

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19:11:29 1 if that relationship impairs the employees

19:11:32 2 objective business judgement.

19:11:33 3 Q. Do you believe that the clause impairs the
19:11:36 4 employees effective business judgment Mott files
19:11:40 5 the first part of that sentence?

19:11:40 6 MS. PAPEZ: Objection. Form.

19:11:44 7 A. I don't know that it modifies it but back
19:11:45 8 to your hypothetical if somebody is in an extra
19:11:50 9 marital affair depending on the nature of that
19:11:53 10 affair and that relationship in the business I
19:11:55 11 think the potential exists for that conflict of
19:11:58 12 interest and that relationship in pairing
19:12:01 13 somebody's judgment and the best thing to do and
19:12:03 14 what our code of conduct requires that simply
19:12:07 15 disclose it so we can have a conversation about
19:12:09 16 it and determine whether Amazon is in any sort of
19:12:13 17 compromised position or jeopardy due to that
19:12:14 18 relationship.

19:12:15 19 Q. Mr. Vonderhaar the code of conduct did
19:12:18 20 require to be disclosed why does it include that
19:12:22 21 clause if the employee objective business?

19:12:22 22 MS. PAPEZ: Objection. Form.

19:12:25 23 A. Because at the end of day the employee in
19:12:28 24 the relationship, the onus is on them to make that
19:12:30 25 judgement call and raise the issue or the question

19:12:35 1 and make sure its out in the open so we can deal
19:12:37 2 with it.

19:12:40 3 Q. Are you aware that Geoff Bezos former CEO
19:12:44 4 of Amazon had an extra marital affair?

19:12:44 5 MS. PAPEZ: Objection. Form.

19:12:50 6 A. I guess what I have heard in the news and
19:12:52 7 read on the newspaper is that that may have
19:12:55 8 occurred I don't know the circumstances or facts
19:12:57 9 haven't really been interested in it.

19:12:59 10 Q. And so you're in the I have a war that he
19:13:01 11 hired his paramour company to do business
19:13:06 12 transactions as part of his other company Blew
19:13:10 13 Origin?

19:13:10 14 MS. PAPEZ: Objection. Form.

19:13:10 15 A. No, I don't know anything about those
19:13:14 16 details.

19:13:14 17 Q. Ultimately who would athe code of conduct
19:13:18 18 at the highest levels of Amazon?

19:13:18 19 MS. PAPEZ: Objection. Form.

19:13:23 20 A. Our code of conduct is assembled and
19:13:26 21 reviewed through or H R team and senior executives
19:13:28 22 and it would not spur price me and although I

19:13:31 23 cannot confirm the certainty that our board

19:13:34 24 doesn't sign off on these policy.

19:13:36 25 Q. In 2011 was Jeff /TPWE /SOEZ the CEO of

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19:13:40 1 Amazon?

19:13:40 2 A. Yes, I believe he was.

19:13:43 3 Q. At that time did Andy Jassy report to him

19:13:47 4 at some point between 2011 and 2018 did Andy Jassy

19:13:53 5 report to Jeff because in Andy's role as the C, E

19:13:58 6 O of AWS?

19:14:00 7 A. I believe he was in that role I don't know

19:14:02 8 when got to CEO title but he was reporting to Jeff

19:14:06 9 in that time.

19:14:07 10 MR. LITTLE: I appreciate your patience.

19:14:09 11 I've got no further questions. I hope you have a

19:14:13 12 good rest of the day. I don't know if anybody

19:14:14 13 else have anything for you?

19:14:18 14 MS. PAPEZ: Sarah, do you have anything

19:14:20 15 further?

19:14:21 16 MS. BODNER: I'm all set thank you.

19:14:24 17 MS. PAPEZ: Can you give us ten minutes I

19:14:25 18 want to make sure we don't have anything else to

19:14:28 19 close up the record and why don't we reconvene

19:14:37 20 7:25 does that work.

19:14:41 21 MR. LITTLE: That's fine.

19:14:43 22 THE VIDEOGRAPHER: Off the record at 7:14

19:14:48 23 p.m.

19:33:02 24 (Proceedings resumed at TIME

19:33:02 25 THE VIDEOGRAPHER: We are back of record at

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19:33:11 1 7:33 p.m.

19:33:18 2 EXAMINATION BY PLAINTIFFS

19:33:18 3 BY MS. PAPEZ:

19:33:21 4 Q. Mr. Vonderhaar, we are back only record

19:33:24 5 you are under oath you still understand that.

19:33:24 6 A. Yes, I do.

19:33:25 7 Q. Mr. Vonderhaar earlier today you were

19:33:28 8 asked a series of questions about your personal

19:33:32 9 role in the CAR approval process for the deals at

19:33:38 10 issue in this lawsuit. Do you recall that

19:33:40 11 testimony?

19:33:47 12 A. Yes, I do.

19:33:47 13 Q. You said you did have some personal role

19:33:49 14 in the approval process for the deals in this case

19:33:53 15 correct?

19:33:55 16 A. Correct. I was the approve very on most

19:34:00 17 or all of those transactions.

19:34:05 18 Q. You were asked a number of questions about

19:34:07 19 how certain information might have affected your

19:34:15 20 assessment of those deals. Do you recall that

19:34:16 21 series of questions?

19:34:17 22 A. Yes.

19:34:18 23 Q. Let me ask you are you aware that Carl,

19:34:34 24 Casey and Northstar had a relationship set up with

19:34:38 25 Casey's brother in 2018 before the first CAR came

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19:34:44 1 to you for approval on these deals?

19:34:57 2 A. That is what I became aware of those

19:34:59 3 relationships came to the surface throw this

19:35:02 4 investigation.

19:35:03 5 Q. Sitting here today you're aware that your

19:35:09 6 transaction managers had relationship where one of

19:35:11 7 your brothers would be getting paid in connection

19:35:14 8 with am zone deals?

19:35:24 9 A. Today I am aware of that yes.

19:35:28 10 MR. LITTLE: Objection.

19:35:29 11 BY MS. PAPEZ:

19:35:29 12 Q. Were you way or that have relationship
19:35:31 13 when approved the cars for the deal at issue in
19:35:33 14 this lawsuit?

19:35:35 15 A. No, I was not aware at the time those
19:35:39 16 deals at the cars would put forward disclosed
19:35:45 17 about those relationships in those cars.

19:35:48 18 A. Mr. Vonderhaar had anyone disclosed to you
19:35:53 19 that your transaction managers were bringing you
19:35:56 20 deals with a developer who would be paying your
19:36:06 21 transaction manager's brother referral fees with
19:36:09 22 the Amazon transactions would you have approved
19:36:11 23 any of those CARs.

19:36:14 24 MR. LITTLE: Objection to form.

19:36:17 25 A. No, I would not have approved any of those

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19:36:20 1 CARs. In fact I would have alerted legal some
19:36:26 2 sort of investigation into what those
19:36:29 3 relationships were those relationships have
19:36:36 4 compromised our process going back to our code of

19:36:39 5 conduct those are the kinds of relationship is
19:36:44 6 that can aim pair or affect somebody judgment if I
19:36:46 7 had known those relationships existed it would
19:36:53 8 have called into yes one of integrity of process
19:36:55 9 an two all the information that was being put
19:36:58 10 forth in those cars that form the basis for my and
19:37:00 11 other people's approvals.

19:37:07 12 Q. Would you have approved any of the CARs if
19:37:10 13 you had known or had been disclosed to you that
19:37:14 14 your transaction managers would get any financial
19:37:17 15 benefit of any kind in connection with the
19:37:20 16 transactions?

19:37:28 17 MR. LITTLE: Objection to form.

19:37:29 18 A. Absolutely not.

19:37:30 19 BY MS. PAPEZ:

19:37:31 20 Q. Why not?

19:37:33 21 A. On top of nondisclosure or failure to
19:37:37 22 disclose to improper relationships its kind of a
19:37:39 23 second offense in my mind the way I think about
19:37:43 24 it. Not only did I not disclose these things but
19:37:50 25 we prohibit our code of ducting conduct as we act

19:37:56 1 an over of the knowing that our employees were
19:37:59 2 going to get a cut of the transaction that was
19:38:03 3 intended to purchase an asset ask absolutely a
19:38:07 4 conflict of interest and would impair their
19:38:10 5 judgment they would be motivated.

19:38:14 6 Q. Just understand the relationship the mere
19:38:17 7 fact of a personal relationship involving in the
19:38:20 8 transaction good enough to prevent you from
19:38:22 9 proving these transactions?

19:38:24 10 A. Yes. To be clear the relationship would
19:38:29 11 be enough to stop or reject the deal and inform or
19:38:35 12 relate to legal these relationships exist and we
19:38:38 13 need to look into them. The fact that our
19:38:40 14 employees were going to profit as a result is I'll
19:38:44 15 say doubly bad.

19:38:48 16 MS. PAPEZ: Thank you Mr. Vonderhaar
19:38:49 17 that's all I have.

19:38:53 18 MR. LITTLE: I have one follow-up very
19:38:55 19 briefly.

19:38:55 20 EXAMINATION BY COUNSEL FOR DEFENDANT CARLETON

19:38:55 21 NELSON

19:38:55 22 BY MR. LITTLE:

19:38:57 23 Q. You talked about not knowing certain
19:39:00 24 information about the relationship -- you instead
19:39:03 25 of about not knowing about a referral relationship

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19:39:05 1 between Northstar and Christian Kirschner. When
19:39:11 2 as far as you know did Amazon first learn of that
19:39:14 3 relationship?

19:39:20 4 A. I don't know when Amazon learned of that
19:39:23 5 relationship. Prior to 2022 but I can't say when.

19:39:29 6 Q. Do you know when the so called
19:39:31 7 whistleblower first contacted Amazon about the
19:39:33 8 issues that later lead to the complaint that you
19:39:35 9 looked at before it was filed?

19:39:38 10 A. No, I don't know when that occurred.

19:39:41 11 Q. If I told you that it was in December of
19:39:45 12 2019 would you have any reason to dispute that
19:39:51 13 date?

19:39:52 14 A. No, I don't have any reason to dispute
19:39:54 15 that date.

19:39:56 16 Q. If individuals at Amazon knew about their
19:40:01 17 further relationship you just described in
19:40:03 18 December of 2019 can you explain why Amazon
19:40:08 19 approved IAD 175 in February of 2020?

19:40:08 20 MS. PAPEZ: Objection. Form.

19:40:14 21 A. I can't say why I guess that would be
19:40:19 22 about a 3 minute period I can't say why
19:40:23 23 transactions continued to flow through I know
19:40:25 24 that's a pretty short period I don't know this
19:40:34 25 there was enough data or found grounds to stop

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19:40:36 1 that transaction based on what was known at that
19:40:38 2 time.

19:40:38 3 Q. You testified if you knew about a referral
19:40:41 4 relationship between Brian Watson and Northstar
19:40:44 5 and Christian Kirschner that would have been
19:40:46 6 enough for you to not approve the transaction; is
19:40:49 7 that correct?

19:40:49 8 A. That is correct. I don't recall that I
19:40:53 9 knew about a referral relationship in February of
19:40:56 10 2020?

19:40:57 11 Q. I'm not asking about your knowledge I'm
19:40:59 12 asking more generally about Amazon's knowledge?

19:41:03 13 MS. PAPEZ: Objection. Form form and
19:41:05 14 foundation?

19:41:07 15 BY DEFENSE COUNSEL:

19:41:08 16 Q. So it's fair to say you don't know when

19:41:11 17 Amazon the company or AWS first learned that piece
19:41:14 18 of information?

19:41:16 19 A. Yes that's fair to say I don't personally
19:41:19 20 know.

19:41:19 21 BY MR. LITTLE:

19:41:22 22 Q. Do you know who within Amazon or AWS would
19:41:26 23 know the information?

19:41:27 24 A. Not specifically. No.

19:41:29 25 MR. LITTLE: Thank you I have got nothing

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19:41:35 1 further.

19:41:35 2 MR. LITTLE: Are we off the record folks.

19:41:35 3 EXAMINATION BY PLAINTIFFS

19:41:35 4 BY MS. PAPEZ:

19:41:39 5 Q. Mr. Vonderhaar I want to clarify so I
19:41:41 6 understand your testimony to Mr. Little just now,
19:41:44 7 just for you personally in your role in the
19:41:48 8 approval process had you been aware of the
19:41:53 9 referral relationship between Casey, Carl and
19:41:57 10 Casey's brother would you have approved these
19:41:59 11 transactions.

19:42:01 12 A. Had I been made aware of those referral
19:42:05 13 relationships in the time frame Mr. Little
19:42:09 14 articulates say February of 2020 had I known that
19:42:12 15 I would have stopped the process until we could
19:42:23 16 stopped the process until we know what was going I
19:42:25 17 would not have proceeded knowing there was a
19:42:27 18 relationship between Carl Casey and this referral
19:42:30 19 company and the brother.

19:42:32 20 MS. PAPEZ: Thank you.

19:42:35 21 THE VIDEOGRAPHER: Anyone else.

19:42:37 22 THE VIDEOGRAPHER: Okay. Then we are off
19:42:38 23 the record at 7:42 p.m.

24

25